

The Gazette of India

EXTRAORDINARY

PART II—Section 3

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No. 126] NEW DELHI, FRIDAY, APRIL 27, 1956

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 12th April 1956

S.R.O. 1610.—Whereas the election of S. Iqbal Singh, s/o S. Rattan Singh, resident of house No. 662, Ward No. 8, Abohar, as a member of the House of the People from the Fazilka-Sirsa Constituency of that House, has been called in question by an election petition presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Mast Ram, s/o L. Wasakhi Ram, resident of Kucha Buta Ram Ahluwalia, Delhi Gate, Ferozepore City;

And, whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, AMRITSAR

Gian Chand Bahl—*Chairman.*

Jawala Singh—*Member.*

Guru Datt Sehgal—*Member.*

ELECTION PETITION No. 27 OF 1954

Mast Ram M.A., LL.B., Advocate, son of L. Wasakhi Ram, resident of Kucha Buta Ram Ahluwalia, Delhi Gate, Ferozepore City (Punjab)—*Petitioner.*

Versus

1. S. Iqbal Singh son of S. Rattan Singh, Resident of House No. 662, Ward No. 8 Abohar (District Ferozepore);

2. Pt. Madhu Sudhan Dass son of Pt. Rullia Ram, Resident of Giddarbaha (District Ferozepore);

3. S. Sihel Singh son of S. Phoola Singh, Resident of Village Jagmelera Alias Sant Nagar, Post Office Jiwan Nagar, Tehsil Sarsa (District Hissar) C/o S. Teja Singh Namdhari, Sirsa (District Hissar);

4. S. Bachittar Singh Pleader son of S. Basant Singh, Resident of Ward No. 5 Fazilka (District Ferozepore);

5. L. Sunam Kaur M.A. Journalist son of Shri Kanshi Ram, Resident of Fazilka (District Ferozepore)—*Respondents.*

Counsel for the petitioner:

Shri Jagan Nath Puri, Advocate.

Counsel for the respondent:—

Sarvshri Inder Dev Dua and Krishan Lal, Advocates.

Order Delivered on March 28, 1956.

ORDER

1. This is an election petition under section 81 of the Representation of the People Act, 1951, by Shri Mast Ram Advocate of Ferozepore City against the election of S. Iqbal Singh respondent No. 1 who was returned to Fazilka-Sirsa constituency of the House of the People at the bye-election held in May, 1954, on the death of S. Atma Singh Namdhari.

2. Six persons including the petitioner were duly nominated as candidates for the constituency. Shri Sunam Rai, M.A., respondent No. 5 withdrew his candidature on the 27th March, 1954 and left the petitioner and respondents Nos. 1 to 4 to contest the bye-election. The polling in the constituency took place on the 9th and 11th May, 1954. The votes were counted on the following two days and S. Iqbal Singh respondent No. 1 was declared duly elected on the 13th May, 1954, having secured 48,823 votes and declaration to that effect was published in the Government of India Gazette Extraordinary, dated May 15, 1954.

3. The successful respondent filed his Return of Election Expenses on June 28, 1954, and notice thereof under Rule 113 of the Representation of the People (Conduct of Election and Election Petitions) Rules 1951 was published in the Gazette of India Extraordinary, dated the 7th July, 1954.

4. S. Iqbal Singh respondent No. 1 was a nominee of the Congress at the bye-election and his election is being challenged on large number of allegations made in the petition which cover almost all the Major and Minor corrupt practices and illegal practices as detailed in sections 123 to 125 of the Representation of the People Act, 1951.

5. The allegations made in the petition are that S. Iqbal Singh respondent No. 1 and his agents committed corrupt practices of bribery to secure votes, that with the object directly and indirectly of interfering and attempting to interfere with the free exercise of electoral rights of the electorate at large the said respondent and his agents fraudulently with the corrupt intention of giving the electorate at large an impression that the Prime Minister Shri Jawahar Lal Nehru had ordered them to vote for S. Iqbal Singh issued and published a big poster in thousands under the caption "Pandit Nehru Ka Farman", that S. Ujagar Singh S.H.O. Fazilka Sadar Police Station sent for some of the Panches and Sarpanches assembled at Fazilka on the 7th March, 1954, for the monthly meeting to the Police Station and warned them that if the box or boxes of any candidate other than S. Iqbal Singh respondent No. 1 disclosed votes polled they would be dealt with properly, that Shri Bhim Sen Sachar, the then Chief Minister of the Punjab gave a warning in the public meeting addressed in Ghas Mandi Fazilka on the 8th May, 1954, that action would be taken against those Congressmen who would not vote and work for respondent No. 1, that the agents of S. Iqbal Singh respondent No. 1 procured the applications by persons for ballot papers in the names of others, that respondent No. 1 and his agents published statements of fact in relation to the personal character and conduct of the petitioner in circulars, or posters under caption "Apne Mun Mian Mithu" which were false and which they believed to be false, or did not believe to be true, that respondent No. 1 and his agents hired and procured on payment buses cars, trucks, tractors, rickshaws and motor cycles for the conveyance of electors to and from the polling booths on a large scale, that respondent No. 1 and his agents incurred and authorised expenditure and employment of persons in contravention of the provisions of the Representation of the People Act, 1951 and of the Rules made thereunder by employing Baja Ghara and Tabla parties and Radio Artists for canvassing, and making payments to them for their services and for out of pocket expenses, that respondent No. 1 and his agents obtained, secured and abetted, and attempted to obtain and procure the assistance other than their votes, in furtherance of the prospectus of respondent No. 1's election of a large number of persons serving under the Government of Punjab, that all the Ministers of the Punjab and Shri Parbodh Chand Chief Parliamentary Secretary to the Chief Minister who visited the constituency and moved in the constituency for days, not only used Government Cars but obtained and procured the assistance of their drivers who were Government Servants for election purposes, that the Return of Election Expenses lodged by respondent No. 1 with the Returning Officer is false in

material particulars and so is the declaration made by the respondent No. 1 for the verification thereof, that respondent No. 1 and his agents issued a large number of circulars, placards and posters having reference to the bye-election in dispute which do not bear on their faces, the names and addresses of the printers and publishers thereof, and that the result of the election was materially affected by non-compliance with the provisions of the Representation of the People Act, 1951, and the Rules made thereunder, regarding appointment of the polling agents and giving of notice thereof to the Returning Officer within the period prescribed, and prohibition against canvassing in or near the polling station and displaying posters within the prohibited radius of 100 yards.

6. The reliefs claimed in the petition are, that the election of S. Iqbal Singh respondent No. 1 be declared void and set aside, and that the aforesaid respondent and the persons found guilty of the corrupt and illegal practices specified in the petition be named and declared disqualified for membership of Parliament and the Legislature of every state, and for voting at any election for six years.

7. The petition is accompanied by the list of particulars of the corrupt and illegal practices alleged in the petition.

8. Respondent Nos. 2 to 4 did not take any part in the trial of the petition. The petition was resisted by S. Iqbal Singh respondent No. 1 on whose behalf certain preliminary objections were taken, the sum and substance of which is that the petitioner had not complied with the mandatory provisions of section 83 of the Representation of the People Act 1951, in the matter of the filing of a complete list of particulars of the allegations made in the petition. The petitioner, however, stated that the list furnished by him was quite complete and in accordance with law. He urged that the written statement had not been verified according to law. On these objections of the parties certain preliminary issues were struck, and they were decided by the Tribunal by its order dated the 19th February, 1955, which order will be read as a part of this order. The Tribunal ordered certain paragraphs of the petition to be struck off, and on the other point it came to the conclusion that the written statement had been properly verified.

9. On merits the contesting respondent controverted all the allegations of Major and Minor corrupt practices, and illegal practices made against him by the petitioner and pleaded that the election was quite fair in every respect.

10. On the above pleadings of the parties, the following issues were framed by the Tribunal on merits:—

- (i) Whether the corrupt and illegal practices detailed in para. VII of the election petition read with paras. 1 to XI and XIV to XVII of the list of particulars of corrupt and illegal practices attached to the petition were committed by the respondent and his agents in connection with the bye-election in dispute?
- (ii) Whether the illegal practices detailed in para. IX of the petition read with para. XIX of the list attached to the petition were committed by the respondent and his agents in connection with the bye-election in dispute and the election of the respondent was induced and procured by the said practices or the result of the election was materially affected thereby?
- (iii) Whether there was any non-compliance of the provisions of the Representation of the People Act 1951 and the Rules made thereunder as detailed in para. X of the election petition on the part of respondent No. 1 and his agents and whether the result of the election was materially affected thereby?
- (iv) Whether the Return of Election Expenses lodged by respondent No. 1 with the Returning Officer, is false in material particulars and so is the declaration made by the said respondent for the verification thereof, as alleged in para. VIII of the Election Petition read with para. XVIII sub-para. 2 last sentence of sub-para. 3 and parts D, E, F and K of sub-para. 3 of the list attached to the Election Petition?
- (v) Whether the election of respondent No. 1 is void and deserve to be set aside?
- (vi) Whether respondent No. 1 stands guilty of the corrupt and illegal practices specified in the election petition and is, therefore, to be disqualified from the membership of Parliament and Legislatures of every State and for voting in any election for six years?

11. Before entering into a discussion of the merits of the points at issues it would be useful to bear in mind what the nature of the proceedings before the Tribunal is, and what should be the standard of proof for judging the evidence produced in the case.

12. As regards the nature of the proceedings, a reference may be made to the following observation of the Supreme Court in *Jagan Nath versus Jaswant Singh* (A.I.R. 1954 S.C. at page 212):

"The general rule is well settled that the statutory requirements of election law must be strictly observed, and that an election contest is not an action at law or a suit in equity but is a purely statutory proceeding unknown to the common law, and that the Court possesses no common law power. It is also well settled that it is a sound principle of natural justice that a success of a candidate who has won at an election should not be lightly interfered with and any petition seeking any such interference must strictly conform to the requirements of the law. It is always to be borne in mind that though an election of successful candidate is not to be lightly interfered with, one of the essentials of that law is also to safeguard the purity of the election process and also to see that people do not get elected by flagrant breaches of that law or by corrupt practices."

13. Regarding the standard of proof it has been held in a long array of cases, both under the old and new law that in case of allegations of corrupt practices the burden of proof on the petitioner which never shifts, and the standard of proof to discharge this burden is the same as in Criminal cases, i.e., the matter requiring proof should be established beyond any reasonable doubt, and that in case of doubt the benefit should go to the respondent.

14. In the election petition of Tricum Das Dwarka Das V. Sir Vassenta Rao A. Darholkar (4 Jagat Narain 40), relating to the Bombay Legislative Council, it has been remarked that the procedure applicable to an enquiry under the Election Law is to be, as nearly as may be, in accordance with that applicable to the trial of suits under the Code of Civil Procedure, but that such an enquiry also partakes of the nature of one for the trial of an offence, and the standard of proof required to bring home the alleged corrupt practice to the returned candidate should be determined accordingly. Further in this very ruling it was remarked that "it is true that the statute regarding bribe is highly penal, yet in construing penal statutes we must not by refining, defeat the obvious intention of the Legislature."

15. In the case of B. Gajendra Chandra Chaudhuri and other V. P. C. Dutta Bahadur (Hammond 367), relating to the Assam Legislative Council, it was remarked at page 391 that "Whether a case is of civil or criminal nature for this purpose, does not depend on the nature of the Tribunal which tries it or the procedure by which it is tried, but on nature of the issue". At page 392 in this very case it was remarked that "In the case before us the allegation was that Gopendra committed a criminal offence, viz., that of bribery, the evidence produced must therefore be of the same standard as would be required in a criminal proceeding". In another case K. V. Krishana Swami V. A. Ramaswami Mudaliyar and another (Hammond 305) relating to the Madras Legislative Council it was similarly remarked at page 310 that "for the reason that the charge of bribery is a serious charge, in fact a criminal charge, we consider that the evidence requisite to prove it should not fall short of evidence required to prove any criminal charge". The same view was taken in the cases reported at pages 230, 665, 757 and 840 of the Indian Election Cases by Sen and Poddar."

16. The respondent in this connection, relies on 40 C.W.N. 741, 4 E.L.R. 73 and 4 E.L.R. 380.

17. In the first case his Lordship remarked that "the trial of an election petition is not governed by the rules applicable to a criminal case". This abstract proposition cannot be controverted. Section 90(2) of the Representation of the People Act itself clearly lays down that "subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure to the trial of suits". There is thus no dispute on this point but the question here is the standard of proof required of a petitioner who charges a respondent with having committed corrupt practices, i.e., whether it should be as in the case of a plaintiff in a civil suit, or as in the case of a prosecutor in a criminal case and whether the evidence is to be judged more strictly than in a civil suit.

18. In 4 E.L.R. 73 it has been remarked "it cannot be laid down broadly that an enquiry into a corrupt practice is in the nature of a criminal case and that the respondent is in the position of an accused person, and, though the burden of proof is on the petitioner to prove a corrupt practice, the respondent is not absolved from all liability to adduce evidence to disprove the case of the petitioner".

19. The above remark, however, cannot be interpreted to mean that the standard of proof required to prove a charge of corrupt practice in the trial of an election petition is different from that in criminal cases and what has been stressed upon on behalf of respondent No. 1 here is, that the allegations being in the nature of criminal charges must be proved with the same strictness.

20. In the third case reported as 4 E.L.R. 380 at 381, the Tribunal observed "an election enquiry though quasi criminal in nature, allows the respondent to be examined and cross-examined on oath, and while deciding whether the allegations of the petitioner are proved beyond reasonable doubt or not, the evidence, of the respondent on oath must also be considered". Having said this the Tribunal adds "we wish to state clearly that we have applied the principles of proof beyond reasonable doubt in appreciating the evidence and coming to our finding".

21. It is thus clear that the rulings cited for the petitioner are not very helpful to him. It is for him to prove his allegations of corrupt practices beyond reasonable doubt.

Issue No. 1.

22. Para. VII(I) of the petition discloses the list of corrupt practice of bribery alleged to have been committed by the respondent No. 1. Bribery is defined as follows:—

"Any gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, or any gratification to any person whomsoever, with the object, directly or indirectly, or inducing:—

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) an elector to vote or refrain from voting at an election,

or as a reward to:—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) as elector for having voted or refrained from voting.

Explanation.—For the purpose of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the return of election expenses referred to in section 76."

23. The following ingredients should exist in order to prove the corrupt practice of bribery:—

(i) There should be a gift or offer or promise of any gratification.

(ii) The gift, offer or promise of any gratification should be by a candidate or his agent or by any other person with the connivance of either of them.

(iii) Such gift etc. may be by any person whomsoever. In other words such person to whom the gift etc. is made may not be a voter at all.

(iv) The giving etc. of such gift etc. should be with either of the following objects which may be either direct or indirect:—

(a) to induce a person to stand or not to stand as a candidate; or

(b) to induce a person to withdraw from being a candidate; or

(c) to induce an elector to vote or not to vote; or

(d) to pay a reward to a person for having stood or not stood as a candidate; or

(e) to pay a reward to a person for having withdrawn his candidature; or

(f) to pay a reward to a voter for having voted or refrained from voting;

(v) The offer or promise of any gratification may be in the form of pecuniary gratification or in any other form whatsoever such as, for instance all forms of entertainment and all forms of employment for reward. But it may be noted that the term gratification does not include the following:—

(a) Expenses bonafide incurred at an election; or

(b) expenses bonafide incurred for the purpose of election; Provided these expenses are entered in the return of election expenses."

24. The petitioner has given seven instances in which corrupt practice of bribery is said to have been committed by S. Iqbal Singh respondent No. 1 and his agents.

25. The first instance of bribery deals with the alleged promise held out by S. Iqbal Singh respondent No. 1 and his agents, to get an enquiry pending against Shri Munshi Ram Galhotra R.W. 10, President Municipal Committee, Fazilka, hushed up. Some time before the bye-election, he was accused of importing goods within the Municipal limits without payment of octroi duty and an enquiry was actually pending against him at the time of bye-election in dispute. The petitioner alleges that respondent No. 1 himself and his agents committed the corrupt practice of bribery in the form of "promising to get the enquiry re: embezzlement of octroi duties pending against Shri Munshi Ram Galhotra, President, Municipal Committee, Fazilka hushed up through his agents—the Punjab Ministers S. Partap Singh Kairon and Shri Bhim Sen Sachar in particular—with the object directly of inducing Shri Munshi Ram Galhotra and his friend P. S. Lala Mukand Lal Ahuja, Ahuja Mansions, Fazilka to vote and work for respondent No. 1.

To get the said enquiry hushed up, Shri Munshi Ram Galhotra, has, in vain, for months been sending Congress Leaders after Congress Leader to the Minister in-charge of local bodies at Simla and Chandigarh."

26. In the list of particulars it is stated that "Respondent No. 1 and Giani Gurmukh Singh Musafir (President, Punjab Pradesh Congress Committee, Jullundur City) committed this corrupt practice on January 14, 1954 at about 10 p.m. at the house of Shri Munshi Ram Galhotra at Fazilka where they were invited to a dinner."

27. In support of his allegations the petitioner relies on the evidence of Sarvshri Sunam Rai P.W. 16, Har Kishen Das P. W. 17, Bhim Sen Sachar, P.W. 27, Nand Lal R.W. 6, Munshi Ram Galhotra R.W. 10 and respondent No. 1 as R.W. 26.

28. Sarvshri Sunam Rai and Harkishan Das have stated that during the bye-election, Shri Bhim Sen Sachar, the then Chief Minister of the Punjab attended a dinner at the house of Shri Nand Lal R.W. 6. The evidence of these witnesses, apparently, has no connection with the dinner mentioned in the list of particulars. Shri Nand Lal P.W. 6 has deposed that a party was held a long before the election at the house of Shri Munshi Ram Galhotra R.W. 10 and a dinner was also arranged in honour of Shri Gurmukh Singh Musafir by Munshi Ram Galhotra. He adds that no one promised to help Shri Munshi Ram Galhotra in his difficulties or to intercede on his behalf with the Ministers.

29. The evidence of Shri Bhim Sen Sachar P.W. 27, Ex-Chief Minister of the Punjab shows that Shri Munshi Ram Galhotra R.W. 10 was taken to him by Shri Iqbal Singh respondent No. 1 who represented that the complaint against Shri Munshi Ram Galhotra was due to party faction. The witness, however, ordered the removal of Shri Munshi Ram Galhotra from the membership of the Municipal Committee. No question was asked from the witness, if any attempt had been made by Shri Gurmukh Singh Musafir to intercede on behalf of Shri Munshi Ram Galhotra.

30. Both Sarvshri Munshi Ram Galhotra P.W. 10 and the respondent as P.W. 26 admit that the latter approached Shri Bhim Sen Sachar and represented to him that complaint against Shri Munshi Ram Galhotra was due to party faction in Fazilka. They, however, deny that the interceding on the part of S. Iqbal Singh respondent was due to any corrupt motive or with a view to seek the help and the assistance of Munshi Ram Galhotra and his party during the bye-election. It may be added that the respondent No. 1 approached Shri Bhim Sen Sachar for Munshi Ram Galhotra on 14th June 1954 i.e., about a month after his success at the bye-election.

31. No attempt has been made by the petitioner to prove the attendance of S. Iqbal Singh at the dinner alleged to have been held on the 14th January, 1954, or to show that Shri Iqbal Singh was a nominee of Congress Party, or his nomination was under contemplation by the party on the aforesaid date. On the other hand, the evidence produced by him is not only vague and indefinite but at

variance with the list of particulars supplied by him and cannot therefore be relied in the least.

32. The second instance of corrupt practice of bribery arises from the part alleged to have been played by the respondent and his agents in the nomination of Rai Sahib Kundan Lal Ahuja and Shri Munshi Ram Saneja R.W. 25 to the Market Committee Abohar. The petitioner alleges that respondent No. 1 himself and his agents "offered and actually got R. S. Kundan Lal Ahuja (President, Municipal Committee, Abohar) and Shri Munshi Ram Saneja (Municipal Commissioner, Abohar), who were considered objectionable character on account of their having been instrumental in arranging a Black Flag Demonstration against Shri Bhim Sen Sachar (The Chief Minister of Punjab) during one of his visits to Abohar, nominated members of the Market Committee, Abohar for which position they had been flying between Abohar, Simla and Chandigarh for over two years, been moving heaven and earth and trying to catch every straw at the Civil Secretariat, Simla and Chandigarh, with the object directiv of inducing them to vote and work for respondent No. 1."

33. In the list of particulars it is stated that "Respondent No. 1 himself and his nephew S. Poochla Singh, his uncle S. Jagat Singh and his brother-in-law S. Bhag Singh committed this corrupt practice on or about January 15, 1954 at Abohar at the shop of M/s Sardar Lal Munshi Ram at about 9 A.M.

34. The history of nomination of Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25 is given by Shri Khazan Chand P.W. 11, the Secretary, Market Committee, Abohar. It appears from his evidence that both Rai Sahib Kundan Lal and Shri Munshi Ram Saneja were notified as members of the Market Committee in 1942 when the Committee was first constituted. They continued to be the Members of the said Committee till 1950. On 22nd January, 1951, fresh nominations were made to the Committee but Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25 were excluded from its membership. A writ petition was filed by Parma Nand a relation of Rai Sahib Kundan Lal and on the 11th August, 1951, the notification about the appointment of the Members of the Market Committee was cancelled. Another notification about the members of the Market Committee was issued on the 25th February, 1953, and both Rai Sahib Kundan Lal and Shri Munshi Ram Saneja, R.W. 25, were nominated to the Committee. On the 14th March, 1953, the Deputy Commissioner of Ferozepore, intimated the Committee that the Chairman would be elected on the 26th March, 1953, but on the 20th March, 1953, he sent a telegram to the effect that the notification dated 25th February 1953, had been cancelled. The appointment of the Members of the Committee was held in abeyance from 20th March, 1953 to 3rd February 1954. On 4th February 1954, both Rai Sahib Kundan Lal and Shri Munshi Ram Saneja were appointed as Members.

35. There is no satisfactory evidence that Rai Sahib Kundan Lal or Shri Munshi Ram Saneja R.W. 25 took any part in arranging a Black Flag Demonstration against Shri Bhim Sen Sachar, the then Chief Minister of the Punjab, during one of his visits to Abohar and that for this reason the notification of the 25th February, 1953, which included their names as members of Market Committee was cancelled. In fact the history of the nomination as given by Shri Khazan Chand P.W. 11 militates against such a suggestion. Only one witness namely Sutinder Nath Vidayarthi P.W. 34 came forward to swear that there was a demonstration against Shri Bhim Sen Sachar, P.W. 27, when he paid a visit to Abohar after the general election, at the instigation of Rai Sahib Kundan Lal and Shri Munshi Ram Saneja, R.W. 25, and their supporters. In fact the names of Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25 had already been excluded from the membership of the Market Committee in January 1951, i.e. long before the elections. He has also stated that both Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25 helped respondent No. 2, during the bye-election in dispute and in his anxiety to help the petitioner he went to the length of stating that the nomination of Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25 was made to the Market Committee after the bye-election and thereby suggested that this was a reward for the services rendered by them to respondent S. Iqbal Singh during the bye-election. On this point he has however been completely falsified by Shri Khazan Chand P.W. 11 and the record produced by him at the instance of the petitioner. Moreover Shri Sutinder Nath was, according to his own admission, deeply interested in the petitioner's election and was a confirmed opponent of Respondent No. 1. It was he, who secured the support of the Praja Socialist Party for the petitioner, and he also deposed to have collected some posters and to have supplied them to the petitioner apparently with an idea that they might prove of some use to him for purposes of an election petition.

36. Shri Munshi Ram Saneja, as R.W. 25, has denied having taken any part in staging the Black Flag Demonstration against Shri Bhim Sen Sachar, P.W. 27. No question was put to Shri Bhim Sen Sachar although he was examined as petitioner's witness, as to whether there was any Black Flag Demonstration against him at Abohar and whether he suspected Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25 of any complicity in it. S. Partap Singh Kalron (P.W. 25), the then Development Minister and now the Chief Minister of the Punjab, was questioned about the part played by R. S. Kundan Lal in the alleged Black Flag Demonstration against Shri Bhim Sen Sachar. He declared, that to his knowledge Rai Sahib Kundan Lal was not responsible for any such Demonstration.

37. The petitioner has thus miserably failed to prove his allegation that respondent or his agents or his relations had any hand in the nomination of Rai Sahib Kundan Lal and Shri Munshi Ram Saneja R.W. 25, to the Market Committee.

38. The third instance of the corrupt practice of bribery is based on the alleged grant to the black-smiths, of leases of sites on favourable terms, by the Municipal Committee, Fazilka. The petitioner alleges that respondent No. 1 and his agents, "offered and actually got allotment of sites occupied by the black-smiths on Abohari Road, Fazilka, between Ghas Mandi and the Abohar Bus stand Fazilka made in their names on their terms with the object directly of inducing the said black-smiths to vote and work for respondent No. 1."

39. In the list of particulars it is stated that "Shri Jagat Narain, Education Minister of the Punjab and L. Munshi Ram Galhotra President Municipal Committee, Fazilka committed this corrupt practice on the 27th or 28th April, 1954, at about 11 A.M. While sitting amongst the black-smiths for begging votes which they persistently refused to give until and unless the allotments for which they had in vain, been breaking their heads for about two years, were made in their names before polling. On a joint application of the black-smiths dated May 6, 1954, Shri Munshi Ram Galhotra passed orders on May 8, 1954 and the Municipal Committee consisting of six active supporters and agents of respondent No. 1 confirmed the President's orders on May 24, 1954."

40. Shri Jagat Narain as P.W. 28 has denied having visited Fazilka either on the 27th or 28th April, 1954. Shri Munshi Ram Galhotra as R.W. 10 has sworn that Shri Jagat Narain P.W. 28 never asked him to vary the terms of the leases of the black-smiths who had occupied sites on the Abohari Road. The evidence of both these witnesses has not been contradicted by any one and there is no reason why it should not be believed. It is abundantly clear that Shri Jagat Narain, the then Education Minister, Punjab, never visited Fazilka on the days given in the list of the particulars and had no talk with Shri Munshi Ram Galhotra R.W. 10, the then President, Municipal Committee, Fazilka, about the terms of the leases on which the black-smiths were occupying sites belonging to the Municipal Committee.

41. The circumstances in which the leases were granted are given in the testimony of Sarvashri Manohar Lal P.W. 5, Secretary Municipal Committee, Fazilka, Harkishan Das P.W. 17, Jagat Narain, P.W. 28, Munshi Ram Galhotra R.W. 19 and Lal Chand R.W. 20.

42. It appears that after the partition of the country some black-smiths from West Pakistan migrated to Fazilka and were given sites by Municipal Committee, Fazilka, on *Teh Bazari System* for plying their trade and were charged rent on daily basis. They made several attempt to secure the sites in their occupation on permanent basis but without much success. One of the reasons that stood in their way was that the ownership of a part of the site vested in the State. Some months before the bye-election in dispute, Shri Jagat Narain, P.W. 28, visited Fazilka to attend the marriage of Shri Chandi Ram Verma's son. Some black-smiths approached him and prayed that sites occupied by them might be leased to them on permanent basis. Shri Jagat Narain asked Shri Harkishan Das P.W. 17, who happened to be with him to look into the matter. Shri Harkishan Das conveyed the message to the President of the Municipal Committee. On 6th May, 1954, the black-smiths submitted a written application Ex. P.W. 5/7 requesting that they might be permitted to build on the sites occupied by them and that rent might be charged on monthly basis. The application was accepted by Shri Munshi Ram Galhotra R.W. 10 on 8th May, 1954 and his action was approved by the Committee on 24th May, 1954, and there was nothing unusual in this procedure.

43. There is not an iota of evidence on the record to show that Shri Jagat Narain or Shri Munshi Ram Galhotra approached any black-smiths for votes in

favour of respondent No. 1 or that the terms of the leases were varied with in view to secure the votes of the black-smiths for respondent No. 1. On the other hand Shri Lal Chand P.W. 20, Secretary, Iron and Steel Association Fazilka is positive that no threats were held out by the Black-smiths to Shri Munshi Ram, President of the Committee or to any Minister or any officer that unless they were given leases of the sites, they would not vote for the Congress Candidate.

44. The fourth corrupt practice of bribery arises from the alleged "promise of transfer of Shops and Commercial Establishment Inspector Fazilka with the object directly of inducing S. Mit Singh, President Kacha Ahrtics Association Fazilka and some cloth and wool Merchants to vote and work for respondent No. 1."

45. In the list of particulars it is stated that Shri Jagat Narain Education Minister of the Punjab, committed this corrupt practice on April 27 or 28th at about 11 A.M. before the shop of M/S. Kishan Chand Amar Nath, Ahrtics, Fazilka.

46. As already observed above, Shri Jagat Narain did not pay a visit to Fazilka on the 27th or 28th April, 1954. The petitioner has not made any attempt whatsoever to substantiate the allegation in regard to the alleged promise of transfer of Shop Inspector.

47. The fifth corrupt practice of bribery is based on the gift made by respondent No. 1 of 48½ bighas of land to *Bhoodan Samiti*. It is alleged in the petition that the gift was made "with the object directly of inducing the tenants, electors and the *Bhoodan* workers to vote and work for respondent No. 1".

48. In the list of particulars it is said that "respondent No. 1, who had been avoiding and evading the *Bhoodan* workers for more than a year, committed this corrupt practice on April 8, 1954, at about 10 A.M. at his residence (662, Ward No. 8, Abohar)."

49. The circumstances in which the respondent No. 1 donated 1/6th of his land to *Bhoodan Samiti* are disclosed in the evidence of Shri Banarsi Das, P.W. 29 and respondent No. 1 as witness for himself. The former is a convener of District *Bhoodan Samiti* Ferozepore, since 1953. It is in his evidence that he approached respondent No. 1 between August 1953 and April, 1954 for donation of land to the *Bhoodan* cause and the respondent promised to do so. A meeting of the *Bhoodan* workers was called on 8th April, 1954, in Municipal Town Hall, Abohar by Shri Achint Ram, Member Parliament. Before joining the meeting the respondent redeemed his promise by donating his land. Shri Banarsi Das P.W. 29, is positive that the *Bhoodan* movement had nothing to do with the election campaign. The respondent's evidence as witness for himself shows that he gifted his land in March. The gift was made by him not with a view to secure votes or the help of the *Bhoodan* workers. He was member incharge of the *Bhoodan* movement on behalf of the District Congress Committee, Ferozepore. It was decided to celebrate a *Bhoodan* week. The respondent as a member in-charge feeling his responsibility of setting an example to others made his own contribution to the movement first of all.

50. As is well known the *Bhoodan* Movement has been started by Saint Vinoba to improve the lot of the poor in general, and to narrow down the inequality of wealth and income. In 2 E.L.R. 390, it was remarked:—

"The offer made by a candidate, of land and cattle to the landless and the poor, irrespective of caste, creed community and religion does not amount to the corrupt practice of bribery as defined in section 123 (1) of the Representation of the People Act, for the giving of land to the landless and improving the position of the poor in general is in line with lessening of inequality of wealth and income which is a commonly accepted aim and object of statesmen and Government in most modern democratic countries. The phrase 'offer of gratification to any person whatsoever' occurring in Section 123(1) of the Representation of the People Act should be given a liberal and reasonable interpretation as the legislature could not have intended that a narrow interpretation should be put upon it".

51. Allied to the above alleged corrupt practice is the next corrupt practice alleged in the petition according to which Sardar Partap Singh Kairon (P.W. 25) the then Development Minister offered lands to evicted tenants and the Harijans with the object directly of inducing them to vote and work for respondent No. 1.

To substantiate his plea covering both these alleged corrupt practices the petitioner relies on certain observations made in *S. Hardam Singh and others Petitioners versus S. Karpal Singh and others respondents*, published in the Extraordinary Gazette of India, dated the 26th September, 1955, and in A.I.R. 1955 S.C. 775. In the former ruling at page 2120 it is remarked.

"The position taken up by the respondent is that promises of grants of land even if made, amount to a declaration of public policy to offer land to landless and poor and do not fall under the definition of bribery. The respondent's learned counsel has argued that it is the accepted policy of the Government and Congress to improve the lot of Harijans and to grant them land and that if such promises were made to them it amounts to a declaration of public policy, and such offers do not fall within the meaning of bribery under Section 123(2) proviso. The petitioner's learned Council contends that when the offer or promises of grant of land are proved to have been made to an elector whether Harijan or not, by a candidate or his agents or any other person with the connivance of a Candidate or his agents, with the object of inducing him to vote or refrain from voting at an election, it would amount to bribery which is a major corrupt practice within the meaning of Section 123(1) of the R.P. Act, 1951. The declaration of a public policy is not deemed to be an interference within the meaning of Section 123(2) under undue influence, that is to say, any direct or indirect interference with the free exercise of an electoral right, but in the case of bribery, there is no exception in respect of a declaration of a public policy and it is no defence to say that if any land was offered with the object of inducing a person to vote or refrain from voting, it was in pursuance of a public policy. In view of our finding in issue No. 7, it is not necessary to go into this question in detail. In our opinion if allegation of bribery is established it will amount to a major corrupt practice and no question of public policy will arise. This issue is accordingly decided against the respondents."

52. Apart from the fact that the above observations are in the nature of *obiter dicta*, in the case before us, no offer of land is alleged to have been ever made by the respondent to any tenants electors, and although Sardar Partap Singh Kairon (P.W. 25) has admitted that he announced the Government policy on this point in several meetings, there is not an iota of evidence on the record to show that he ever offered any lands to the evicted tenants and the Harijans with the object directly of inducing them to vote and work for respondent No. 1, and the declaration of policy made by him which was on the lines of the Socialistic pattern of society envisaged for the entire Indian Union and on which all the major parties in the country agreed, was also for the entire Punjab State and not for Fazilka-Sirsa constituency. Sardar Partap Singh Kairon has categorically denied that he ever held out any promise to any body for securing votes for respondent No. 1.

53. In the Supreme Court case relied upon by the petitioner certain payments were made by the appellant to the Congress Committee. The Tribunal held on consideration of the various facts that the payments in question could not be regarded as innocent and not motivated by the desire to obtain the recommendations of the North Arcot District Congress Committee for candidature of the first respondent. The maximum expense specified for election to the Madras State Legislature for a single member constituency was Rs. 8,000. The Return of Election Expenses lodged by the appellant showed that he spent in all Rs. 7,063 for the election. The charge against him in the petition was that he had failed to disclose in his Return two sums of Rs. 500 each. It was remarked by the Supreme Court.

"While it is notorious to make a donation for charitable purposes, if that is made at the time of or on the eve of an election, it is open to the charge that its real object was to induce the electors to vote in favour of the particular candidate, and that it should there be treated as election expenses. 40'M and H1 and 60'M and H374, Bel on"

54. The facts of the present case are entirely different from the facts mentioned in the above cases relied upon by the petitioner. In this case there is the clear evidence of the Secretary, *Bhoodan Samiti* that the *Bhoodan* Movement had nothing to do with the bye-election campaign. The respondent happened to be incharge of the *Bhoodan* Movement and the District Congress Committee decided

to celebrate a *Bhoodan* week. The respondent could not possibly ask others for donations without setting an example himself. It may here be added, that in the *Bhoodan* Movement the donated land is distributed several months after the donation and it is not known at the time of donation who would ultimately be benefited by a particular gift. In the circumstances there was no question of respondent's influencing or inducing the tenants electors to vote for him.

55. The seventh and the last corrupt practice of bribery consists of an alleged promise of promotion to S. Ujagar Singh S.H.O. Fazilka Sadar Police Station with the object of inducing him to exercise undue influence over the electors in his jurisdiction for making them vote and work for respondent No. 1.

56. In the list of particulars it is stated that respondent No. 1 himself committed this corrupt practice on or about March 29, 1954 at Fazilka in the Sadar Police Station at about 9 A.M.

57. No attempt whatsoever has been made by the petitioner to prove this allegation. This finished the alleged instance of Bribery.

58. Para VII(2) of the petition gives the instances in which undue influence is said to have been exercised by respondent No. 1 and his agents.

59. "Undue influence" is defined in sub-section 2 of Section 123 of the Representation of People Act, 1951, as any direct or indirect interference, or attempt to interfere with the free exercise of any electoral right on the part of a candidate, or his agent, or any other person with the connivance of the candidate or his agent, and in particular the threatening of any candidate, or any elector, or any person in whom a candidate or an elector is interested with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community, and inducing or attempting to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure. A declaration of public policy, or a promise of public action, or the mere exercise of a legal right without an intent to interfere with an electoral right, is however not to be deemed as an interference in the nature of undue influence.

60. The first instance of the alleged exercise of undue influence by the respondent or his agents is said to consist of the printing and publication of posters similar to Ex. P. 7 and Ex. P. 8. The petitioner alleges that "with the object directly and indirectly of interfering and attempting to interfere with the free exercise of the electoral rights of the electorate at large, Respondent No. 1 and his agents fraudulently, with the corrupt intention of giving the electorate at large an impression that Pandit Jawahar Lal Nehru had ordered them to vote for Respondent No. 1 issued and published a big poster in thousands under the caption "Pandit Nehru Ka Firman", when as a matter of fact Pt. Jawahar Lal Nehru had never promulgated or issued any such *Firman*. As a matter of fact a large number of illiterate and semi-literate electors, particularly those living in rural areas of the constituency and having no sense to differentiate between Pt. Jawahar Lal Nehru (the President of the Indian National Congress) and Pandit Nehru (the Prime Minister of India) were deceived, and voted for respondent No. 1 on account of this fraud alone.

Even if Pt. Jawahar Lal Nehru had promulgated or issued any such alleged *Firman*, the publication thereof by respondent No. 1 and his agents with the corrupt intention and object directly and indirectly of making and attempting to make the electorate at large believe that they had been ordered to vote for respondent No. 1 interfered with the free exercise of the electoral rights of the electorate at large on a very large scale and constitutes a Major Corrupt Practice."

61. The poster objected to by the petitioner contains the picture of Shri Jawahar Lal Nehru and reads as follows:—

"the strength of India lies in the strength of Congress; For liberty of India, it is necessary to keep the Congress alive and to raise its prestige; for political and material progress of the country Congress is the only body which can be relied upon. The voters should therefore cast their votes in favour of S. Iqbal Singh a Congress Candidate."

62. The case of the petitioner is that this poster was got printed and published by respondent No. 1 to deceive and unduly influence the voters. He says that Shri Jawahar Lal Nehru is not only the Prime Minister of India, but a great leader and an idol of the people and as such has innumerable followers and admirers, and that with a view to influence the voters in his favour and to prejudice the prospects of the petitioner by utilising the name and influence of

Shri Jawahar Lal Nehru, respondent No. 1 adopted a fraudulent device to fabricate the above mentioned poster with false recitals without knowledge of Shri Jawahar Lal Nehru, and furthermore that even if the posters were issued with the consent of Shri Jawahar Lal Nehru it was impossible for the ignorant voters to make a distinction between Shri Jawahar Lal Nehru as Prime Minister and Shri Nehru as President of the Congress. The voters were misled by the poster and treated it as a command from the Prime Minister to vote in favour of respondent.

63. We are unable to accept this argument of the petitioner. It is not disputed that the poster was issued without the permission of Shri Jawahar Lal Nehru. At the time of the bye-election Shri Jawahar Lal Nehru happened to be the President of the Congress and the leader of Congress party in Parliament. The respondent was adopted by the Congress as its candidate and it can be safely presumed that Shri Jawahar Lal Nehru wished him success in the bye-election. There is no false statement in the poster. The entire statement regarding Congress is nothing but what has been said from time to time by Shri Jawahar Lal Nehru from Congress platform.

64. As regards the second objection that the voters being illiterate, were misled by the poster as they could not make a distinction between Shri Jawahar Lal Nehru the Prime Minister and Shri Nehru the President of Congress, there is no doubt that there is a good deal of ignorance amongst the people residing in rural areas, but the last elections have shown that the people are not altogether unaware of the changes that have overtaken the country during the last 10 years. The elections have shown that even the people in rural areas are fully conscious of the enlarged franchise introduced by the constitution of the country and they are not so ignorant as they are supposed to be. Shri Jawahar Lal Nehru is loved and worshipped by the people more as a leader of Congress than as Prime Minister and whenever an appeal is made by him to the voters in his capacity as a Congress Man it is bound to touch their heart. It is note worthy that not a single witness has come forward to swear that he was misled by the posters Ex. P. 7 and Ex. P. 8. The petitioner has not in our opinion succeeded in showing that respondent committed any corrupt practice by issuing leaflets similar to Ex P. 7 and Ex. P. 8.

65. The second instance in which undue influence is said to have been exercised by the respondent is based on the threats alleged to have been held out by S. Ujagar Singh S.H.O. Fazilka to some Panches and Sarpanches.

66. This instance was ordered to be deleted (*vide* order of the Tribunal dated 19th February 1955).

67. The third instance of the alleged exercise of undue influence is based on a certain speech said to have been made by Shri Bhim Sen Sachar P.W. 27, the then Chief Minister of the Punjab. The petitioner alleges "that on learning that all persuasions by Shri Parbodh Chand (his Chief Parliamentary Secretary) S. Partap Singh Kairon Development Minister, L. Jagat Narain, Education Minister and the Congress Leaders of humbler ranks had failed to bring round the Congress Leaders of Fazilka and Abohar, Shri Bhim Sen Sachar Chief Minister of the Punjab issued a warning in the public meeting he addressed in Ghas Mandi Fazilka on May 8, 1954 at about 10 P.M. and threatened those Congressmen with action who will not vote and work for Respondent No. 1 or voted and worked for any other candidate or candidates and thus interfered with the free exercise of their electoral rights and openly committed the corrupt practice specified in section 123 (2)."

68. No satisfactory evidence has been produced by the petitioner that any speech was made by Shri Bhim Sen Sachar on the 8th May, 1954, at Fazilka. Shri Bhim Sen Sachar as P.W. 27 has stated that Shri Parmanand (P.W. 12) of Abohar had some political differences with the respondent and was luke warm towards him. He addressed a letter to Shri Parmanand in reply to his letter and asked him to rise above personal considerations and to look to the cause. The evidence of Shri Parmanand P.W. 12 is also on the same lines. The petitioner's case in the petition is that threats were held out to Congress men who were not prepared to vote and work for respondent No. 1 in the meeting held at Fazilka on the 8th May, 1954, and the case tried to be made out before the Tribunal is that threats were held out by Shri Bhim Sen Sachar in some letter.

69. In an election petition the pleadings have to be strictly construed and the petitioner must confine himself to the allegations made in the petition and the list of particulars. Even if one construes the pleadings in the present petition, liberally there cannot be any getting over the fact that there is no trace therein of the case sought to be set up at the trial. Moreover the legitimate exercise of

influence by a political party or an association should also not be confused with "undue influence". If a political party passes a resolution of support to a candidate and asks its members to vote for him, it will be only a legitimate exercise of influence: [Doabia (II) 394]. In Bengal Legislative Assembly Constituency, 1940 (Sen and Poddar 188) it was similarly held that there was no exercise of undue influence on the part of the leader of the party who was also the Chief Minister in the matter of issuing a whip requesting the members, to cast their preferences in a particular order.

70. The fourth instance of alleged exercise of undue influence is said to consist of a certain action on the part of Shri Shamsher Singh a relation of the respondent. The petitioner alleges that "S. Shamsher Singh son of S. Balwant Singh of village Ghaloo, a near relation and agent of respondent No. 1 drew a line over the bridge of the Soa (Water distributory) between Nihal Khara and Ghalloo administering an oath that only those who had to vote for respondent No. 1 should cross the line and go to the polling station and that others should refrain from voting and return home, and thus interfered with the free exercise of the electoral rights."

71. No attempt has been made by the petitioner to prove this allegation.

72. The last instance of undue influence given in the petition is that "S. Bahal Singh, D.S.P., threatened some arms license holders, that if they did not vote and work for respondent No. 1 or worked for any other candidate, their licenses would be cancelled."

73. This part of the petition was ordered to be deleted, *vide* our order dated 19th February 1955.

74. Para VII (3) of the petition contains the allegation that the agents of Respondent No. 1 procured applications by persons for ballot papers in the names of others.

75. This portion of the petition was also ordered to be deleted *vide* the same order.

76. In para VII(4) of the petition it is alleged that "respondent No. 1 and his agents were responsible for printing and publication of false and prejudicial statement of facts in relation to the personal character and the conduct of the petitioner and the impugned portion of the publication is given in the list of particulars, i.e.—

"1951 main general election Ke waqt isne Punjab Assembly Ke liye ticket Hasil Karne Ki darkhast Ki. Ticket na milne per apne halif-nama vani partigiya pater ko khairbad kaih kar Congress Umidwar Ka muqabila kiya."

77. This statement is contained in poster Ex. P. 15 and it is alleged that "it related to the personal character and conduct of the petitioner; was prejudicial to the petitioner's election prospects and was absolutely false, in as much as the petitioner (1) had never applied for the Congress ticket, or for the ticket of any party at any election much less at the General Election held in 1951-52, and (2) had never given any pledge (*Halifnama* or *Partigyapatra*) for not contesting the election against a Congress Candidate at any election much less at the General Elections held in 1951-52.

78. The respondent denies his complicity in the printing and publication of the said poster. The first point that requires decision is whether the petitioner has succeeded in showing that the respondent or his agents were responsible for the printing and publication of document Ex. P. 15.

79. The petitioner in this connection relies on the evidence of Sarvshri Vidhiya Chander P.W. 2 and Sutinder Nath P.W. 34 and his own statement as P.W. 35.

80. Shree Vidhiya Chander is the proprietor of Hari Press, Abohar. He has stated that hand bills similar to Ex. P. 15 and some other documents were printed by him at the instance of Jagdish Chander or Jagdish Rai R.W. 2, who placed an order on behalf of S. Darbara Singh, Giani Gurmukh Singh Musafir and the District Congress Committee. He is unable to produce any documentary evidence to show that he was instructed by Jagdish Chander to print the hand bills similar to Ex. P. 15 and although he has stated that the printing charges were paid by the District Congress Committee through Jagdish Rai, he admitted that the name of the person making the payment was not entered in the books. He also says that he had no arrangement for printing posters or hand bills in Urdu, and had

to get the poster Ex. P. 15 printed at Amrit Electric Press Ferozepore City. No attempt has been made to produce the proprietor or the manager of the said press to prove that the poster in question was published at Amrit Electric Press at the instance of Vidhiya Chander. This omission by itself may be sufficient to damn the evidence of Vidhiya Chander, but there are other reasons also which make it unsafe to place reliance on his statement. He admits that in a contest between his father Master Harkishan Das P.W. 17, and Sardar Thaman Singh, for election to the Presidentship of the District Congress Committee, the respondent supported S. Thaman Singh and the petitioner has admitted in cross examination as P.W. 35 that he filed a sales tax appeal on behalf of the witness, and has not so far been paid anything. The explanation given by the petitioner for this non-payment is not so very convincing, and it appears that no payment was intended.

81. It is significant to note that in the list of particulars quite a different story is given as to how this poster Ex. P. 15 came to be printed and published. At page 7 it is stated "it will not here be out of place to state that when, about April 15, 1954, Shri Wazir Chand Sikka read out the manuscript of the circular, placard or poster in the Central Congress Election Office Abohar at about 6 p.m. in the presence of respondent No. 1, Shri Chandi Ram Verma M.L.A., S. Guru Bachan Singh Congress worker, Abohar, Shri Charan Das Office Secretary Thana Congress Committee Abohar, Shri Kundan Lal Bhandari, Congress worker, Ferozepore City and some other Congress Workers of the Illava, he was told by Shri Chandi Ram Verma or Kundan Lal Bhandari that the petitioner had never applied for the Congress Ticket and that the above said statement be deleted. But failing to find anything against the petitioner and determined to throw mud upon him, Shri Wazir Chand Sikka sent the same to the press."

82. Thus according to the list of particulars, it was Shri Wazir Chand Sikka R.W. 3 who was responsible for sending manuscript of Ex. P. 15 to the Press for printing but Shri Vidhiya Chander has been made to depose that Ex. P. 15 was printed at the instance of Jagdish Chander R.W. 2, who denied having received any poster similar to Ex. P. 15 from Hari Press. The reason why the name of Jagdish Chander has been introduced is not far to seek. He received some posters from Hari Press for the respondent, as is clear from the documents filed alongwith the Return of Election Expenses, so it was thought this his name could be easily availed of as one who had placed the order for printing of Ex. P. 15., the petitioner forgetting all the time that in the list of particulars it was Shri Wazir Chand Sikka who had been shown as being responsible for sending the manuscript of Ex. P. 15 to the Press, and it was no where recited that Sardar Darbara Singh or Giani Gurmukh Singh Musafir had sent Jagdish Chander with this order. In the petition proper at page (3) even the name of Shri Wazir Chand Sikka is not mentioned in this connection and the name of Charanjit Lal is mentioned but in the statement of Shri Vidhiya Chander the name of neither of these two is mentioned

83. Shri Sutinder Nath P.W. 34 simply says that he found respondent No. 1 distributing some hand bills like Ex. P. 15. He is a strong supporter of the petitioner as already noticed by us, and has not impressed us as an independent witness

84. The petitioner's own statement also, does not improve his position on this point.

85. The respondent as R.W. 26 has sworn that he had no hand in the issuing of the poster Ex. P. 15. S. Karam Singh P.W. 22 who is the proprietor of "Nai Rah" supports him. He says that on reading a notice similar to Ex. P. 30, he made enquiries from the respondent, and was told that he "the respondent" had no hand in the printing and publication of the said poster. He accordingly gave publicity to this denial in his paper.

86. This is the entire evidence produced by the petitioner in this connection, and on this unsatisfactory evidence and in the absence of the original manuscript, we don't find it possible to hold with a reasonable certainty that the respondent or any of his agents had any hand in the printing or publication of this poster.

87. We are, further of the opinion that the hand bill Ex. P. 15 even otherwise does not fall within the ambit of the corrupt practice covered by Section 123(5) of the Representation of the People Act, 1951, as the statement contained therein, do not relate to the personal character or conduct of the petitioner, which is the most material ingredient of this corrupt practice

88. A distinction must be drawn between the criticism of a candidate as a politician or a public man and statements in relation to his personal character

or conduct. Criticism of his public or political activities, however, ill mannered, unfair or exaggerated it may be, is not forbidden. It is only when the man under-neath the politician is attacked and his honour, integrity or veracity assailed in the statement, that the statement becomes offensive within the meaning of section 123(5). In support of the above view, reference may be made to the cases reported in Hammond's Election Cases 1920—1935 at page 231, Shaik Muhsan and Mansoor *Versus* Moulvi Muhammad Shafi Daudi (Hammond 677) Hoshiarpur West Muhammanden Constituency, 1937 case (Sen and Poddar 399), Moinuddin B Harris *Vs.* B. P. Divgi (3 E.L.R. 248), Gazette of India Extraordinary, Part II, dated the 25th September, 1953, at page 2985, and Gazette of India Extraordinary, Part II dated the 15th November, 1954 at page 2231. Keeping the above principle in view we have to examine the hand bill Ex. P. 15 in order to find out whether it is hit by section 123(5).

89. Ex. P. 15 is an appeal to the voters to vote for S. Iqbal Singh and strengthen the hands of Shri Jawahar Lal Nehru their leader who is to solve the problem of Kashmir, liberate the French and Portuguese possessions in India, give a suitable answer to the sinister friendship subsisting between Pakistan and America and save the world from destruction of Atom and Hydrogen Bombs. It has the heading "Self Praise, Apne Munh Mian Mithu". It begins with the statement that Mast Ram (Vakil) of Ferozepore City has been issuing several posters with a view to secure cheap leadership. Before replying to the posters which are said to be founded on baseless lies the writer thinks it necessary to draw the attention of the voters to the political deterioration that has come about in the petitioner. In the second paragraph it is said that at one time the petitioner was a Congress Worker. During the general election of 1951 he applied for Congress ticket but when his application was refused he contested the election of the Congress nominee inspite of the solemn undertaking given by him to the Congress, not to do so. He secured only three hundred votes and his security was forfeited. The poster further says that since his last defeat the petitioner has become a sworn enemy of the Congress Government. In the parliamentary bye-election he tried to secure the help of various political parties but failed and then started issuing meaningless posters to deceive the voters, who were warned by Ex. P. 15 not to be so deceived by his said posters.

90. The learned counsel for the respondent contends and rightly so that throughout the poster the reference to the petitioner is to his acts, as a public man. In paragraph 1 there is reference to the attempts made by the petitioner to create atmosphere in his favour by issuing posters. The second paragraph refers to the attempt made by him to secure Congress ticket and to his action in fighting the Congress Candidate when his application was refused. "TICKET NA MILNE PAR APNE HALAF NAMA YANI PARTIGIA PATAR KO KHAIR BAD KEH KAR CONGRESS UMIDWAR KA MUKABILA KIYA." This expression cannot be said to have any relation to the personal character or conduct of the petitioner. The other statement "MAJUDA PARLIAMENTARY ELECTION MEN UNHON NE MUKHTILIF SIASI PARTION KI IMDAD HASIL KARNE KI KOSHISH KI LEKAN SAB TARAF SE TAKA SA JAWAB PAIYA. AB HAWAS BAKHTA HO KAR UT PATANK ISHATAHAR NIKAL RAHE HAIN", is also not a statement in relation to the personal character or the conduct of the petitioner. The last part of the leaflet contains an appeal to the voters to strengthen the hands of Shri Jawahar Lal Nehru who has to solve several problems vital to the country by voting for S. Iqbal Singh a Congress nominee.

91 The poster thus only contains criticism of the public or political activities of the petitioner and has no reference to his personal character or conduct. Such criticism is not hit by section 123(5) of the Representation of the People Act, 1951.

92 In view of the above finding the question as to whether the statements contained in the poster were false and were reasonably calculated to prejudice the prospects of the petitioner election does not arise.

93 Para. VII(5) of the petition contains allegation about the supply of conveyance to the voters. The petitioner alleges that "respondent No. 1 and his agents hired and procured, on payment and otherwise, buses, cars, trucks, tractor and trollies, rickshaws and motor cycles for the conveyance of electors at large to and from the polling stations on a very very extensive scale."

94 In the list of particulars it is stated "that respondent No. 1's agents e.g. L. Jagat Narain Education Minister, L. Prem Sukhdas M.L.C. Sirsa and S. Gurbachan Singh supplied conveyance to electors to an extent which made the whole election a farce. The petitioner complained about it in the presence of

Shri Ganga Bishan Advocate Sirsa, the Election agents of S. Suhel Singh to the Returning Officer (Shri S. Vohra, I.C.S., Deputy Commissioner, Ferozepore) on May 9, 1954, in the Municipal Hall Sirsa polling station No. 33 when he was visiting the same with Ch. Bhim Singh S.D.O. Sirsa."

"The petitioner made a complaint in writing to the Presiding Officer of Canal Rest House Polling Station No. 31 that respondent No. 1's agents were transporting electors in a truck of which they had removed the number plates and were bringing the electors within hundred yards of the polling station in respondent No. 1's Camp."

"The petitioner's Polling Agent (Shri Satya Pall Kakar, Hira Mani, Ferozepore City) not only complained against transportation of electors by respondent No. 1's agents but actually tried to give in writing to the Presiding Officer of Market Committee Sirsa Polling Station No. 34 that Shri Jagat Narain (Education Minister) was transporting electors in vehicles No. P.N.J. 90 and P.N.W. 727; Shri Prem Sukh Das M.L.C., Sirsa in vehicle No. 413 and S. Gurbachan Singh in Truck No. 500, but in vain. The Presiding Officer refused to receive the same."

"At Gidharbaha, petitioner's Polling Agents, Shri Vir Chand son of Shri Khatu Ram made a report in writing at the Police Station on May 9, 1954 that one Sub Inspector or Assistant Sub Inspector of Police and two Constables were transporting electors in a bus requisitioned for police to respondent No. 1's camp."

95. It is also stated that the petitioner saw on the 9th May, 1954, the agents of respondent No. 1 bringing voters to polling stations Nos. 30, 32 and 53 in vehicles whose number are given in the list of particulars. It is further stated that on 11th May 1954 several agents of respondent No. 1 were seen transporting the voters to the polling booths. The names and the addresses of the voters whose number is fairly large are also given in the list.

96. A plain reading of section 123(6) of the Representation of the People Act, 1951, shows that this corrupt practice, consists in the hiring or procuring of any vehicle for the conveyance of any voters to or from any polling station, when payment is made for use of any vehicle it is "hiring", but when no payment is made, it is "Procuring". The purpose for which the vehicle is hired or procured must be for the conveyance of any elector or electors. The petitioner in order to succeed, has to prove not only the purpose, namely, conveyance of any electors; but also the hiring or procuring which is the main ingredient of the corrupt practice. The purpose of hiring or procuring can be proved by various kinds of evidence, but the best and indisputable proof is by showing that the vehicle was found actually carrying a voter or voters to or from any polling station. In the present case, the petitioner alleges that the voters were actually carried to certain polling stations. Evidence has been adduced on this point. It will be discussed to prove the alleged conveyance of voters.

97. It has been, however, stenuously argued on behalf of the respondent that the list is entirely silent on the point that any trucks or buses etc. were hired or procured, but only speaks about the carrying of the voters from various villages to various polling booths by the agents of respondent No. 1. The petition no doubt contains the allegation of either hiring or procuring but it is necessary to state the date of hiring or procuring, the names of the persons alleged to have hired or procured, and other particulars required by section 83(2) of the Representation of the People Act 1951. In support of this view, reference may be made to the case reported as Desai Baswaraj V. Dasankop Hasansab and others (4 E.L.B. 380). The petitioner here, gives the date of carrying the voters and the names of the persons who carried the voters. This is not a compliance with the requirement of section 82(2). It may be that the date of carrying the voters was the same as the date of hiring or procuring the conveyance. It is also possible that the date of hiring or procuring was different from the date of actually carrying the voters and the persons who hired or procured were different from those who actually carried the voters; so, it cannot be argued that the particulars of 'hiring' a vehicle can be invariably gathered from the particulars of 'carrying' voters in that vehicle. It was necessary for the petitioner to state clearly in his pleadings whether a particular conveyance was hired or procured. Having failed to do so he cannot succeed on this ground. We now to proceed to examine the evidence regarding the conveyance of the voters.

98. Shri Jagat Narain was examined by the petitioner as P.W. 28, but he was not questioned about the alleged supplying of conveyance to the voters or transporting them in vehicles. No attempt was made to produce the report alleged to have been made at the Polling Station Gidharbaha on the 9th May, 1954, by

the petitioner's agent Shri Vir Chand against certain police officers, or by the petitioner to the Presiding Officer of Canal Rest House Polling Station. The petitioner, however, relies on the evidence of Sarvshri S. R. Jagdish P. W. 18, and Ganga Bishan P.W. 31, his own statement as P.W. 35 and complaints Ex. P.W. 1/1 and Ex. P. 1/2 made by his agent Shri Nand Kishore.

99. Shri S. R. Jagdish has stated that he saw some of the voters of the respondent from Azimgarh being conveyed in a weapon carrier driven by Shri Krishan Lal to the camp of respondent No. 1. He could not give the name of any one of the voters. He admits that when certain persons were brought in a weapon carrier and taken to the camp of the respondent he concluded that they were voters. He was a supporter of the petitioner in the bye-election.

100. Shri Ganga Bishan is an Advocate at Sirsa. He has deposed that he saw some voters being taken in a truck of S. Gurbachan Singh in old Ward No. 3 of Sirsa town. He accompanied by the petitioner complained to Shri S. Vohra, the then Deputy Commissioner of Ferozepore District and Shri Bhim Singh P.W. 20 the then S.D.M. Sirsa about this. He even told them that the truck could not be used for carrying passengers, but the aforesaid officers took no action. He adds that on the same day he saw a bus belonging to the Hissar District Transport Co. carrying voters towards Canal Rest House Polling Station. The petitioner as witness for himself corroborates Shri Ganga Bishan. He also states that on the 11th May, 1954, he saw some voters being conveyed at Varlam Khara in vehicle No. 859 and on the same day he saw voters at Jarwala Haunata in a motor vehicle whose number he could not give. The voters were left at a little distance from the respondent camp. They walked down to the camp, got their chits and went to the polling booths. Shri S. Vohra has not been examined by the petitioner. He is a member of the Indian Civil Services and we are not prepared to believe that he would have prejured himself in the witness box. In the circumstances, it would be reasonable to draw an inference adverse to the petitioner because of this failure to produce him as a witness. Shri Bhim Singh was examined by the respondent. He denies that any complaint was made in his presence to Shri S. Vohra, that Shri Prem Sukh Das P.W. 21, Shri Jagat Narain P.W. 28 and S. Gurbachan Singh had been conveying the voters to the polling stations in cars. Shri Prem Sukh Das is a M.L.C. He also denies that the car of his cousin was used for the carrying of the voters or that any voter was conveyed to the polling booth in any car or other means of conveyance. While it may be argued that Shri Prem Sukh Das as a Congressman is likely to support the respondent who is a Congress nominee, no objection whatsoever can be taken against the sworn testimony of Shri Bhim Singh. He is a Senior Officer and is not interested either in the petitioner or in the respondent. There is no reason why his testimony should not be believed.

101. Shri Nand Kishore has not been examined by the petitioner and it is not known in what circumstances he filed complaints Ex. P.W. 1/1 and Ex. P.W. 1/2. The latter complaint, however, relates to the conduct of one Jai Ram.

102. The respondent has examined Sarvshri Arjan Singh P.W. 8, Sardul Singh P.W. 12, Balwant Singh P.W. 13, Jarnail Singh P.W. 14, Dilasa Ram P.W. 15, Ranjit Singh P.W. 16, Surjan Singh P.W. 17, Bhoor Das P.W. 18, Narain Singh P.W. 22, Mans Raj P.W. 23 Santa Singh P.W. 24, and himself as P.W. 26, to show that voters from different villages walked down to the polling stations. It is unnecessary to discuss their statements in detail for the evidence produced by the petitioner is meagre and absolutely unconvincing. In fact, we are of opinion that the petitioner has supplied the list of the particulars about the conveying of the voters recklessly and without caring to ascertain the precise facts.

103. Para. VII(6) of the petition contains allegation about the incurring of unauthorised expenditure and employment of unauthorised persons. The petitioner alleged "that respondent No. 1 and his agents" incurred and authorised expenditure and employment of persons in contravention of the provisions of the Representation of the People Act, 1951 and of the Rules made thereunder, e.g. employing *Baja-Ghara-Tabla* and Radio Artists for canvassing and making payments to them for their services and for out of pocket expenses.

104. In the list of particulars it is stated that "respondent No. 1" employed a large number of professional propagandists from Gurdaspur, Amritsar, Jullundur and Ludhiana District, e.g., (1) S. Bachan Singh Bachan Radio Artist, (2) S. Piyara Singh 'Panchhi', (3) Shri Nand Lal 'Nurpuri', (4) S. Partap Singh 'Jogi', (5) S. Hazara Singh 'Mushtaq', (6) Shri Mela Ram 'Tair' and Rural publicity Workers of Ludhiana and Gurdaspur District e.g. (8) Puran Chand;

Baldev Raj 'Tooti', (10) Balu Ram, (11) Randhir Singh, for canvassing in his favour on daily payment basis through Shri Parbodh Chander, Chief Parliamentary Secretary to the Chief Minister of Punjab for about a month i.e. from April 15, 1954 onwards upto May 11, 1954.

"Besides the abovesaid persons, respondent No. 1 employed and paid the following persons mentioned in part K of his return of contravention of the Rules:—

Harbhajan Singh, Kishan Lal, Madan Lal, Des Raj, Gurpartap Singh, Labh Chand, Madan Lal, Des Raj, Chela Ram, Surinder Kumar, Ram Lal, Madan Mohan, Ram Bhaj, Kehar Singh, Mool Chand, Nihal Chand, Saudagar Ram, Ved Parkash, Madan Lal, Sadhu Ram, Sohan Lal Roshan Lal, Jai Kishen, Rajinder Malhotra, Dev Dutt, Surinder Singh, Des Lekh Raj, Balu Ram, Kesar Singh, Keval Krishen, Raja Ram, 'Mahanbir and other'."

105. The evidence produced by the petitioner consists of the statements of Sarvshri Vidya Chander P.W. 2, S. R. Jagdish P.W. 18, and of the petitioner as P.W. 35.

106. Vidya Chander's evidence is to the effect that some three or four persons did propaganda for respondent No. 1 at Abohar by playing at Ghara, that some ladies including Shrimati Amar Kaur paid a visit to Abohar for propaganda but they went away to the villages without delivering any lecture and that S. Gurbachan Singh P.W. 1 carried on propaganda for respondent by reciting poems similar to those as contained in Ex P. 13 and Ex P. 14. The witness could not however disclose the name of any member of the Ghara party. S. R. Jagdish has stated that he attended three or four meetings which were held to support respondent S. Iqbal Singh and at those meetings S. Gurbachan Singh P.W. 1 and S. Piyara Singh 'Panchhi' used to sing songs in support of the respondent. The evidence of both these witnesses is contradicted by S. Gurbachan Singh P.W. 1 who denies having visited Abohar in connection with the bye-election or having recited any poems in favour of respondent No. 1. The respondent as witness for himself denies having procured the services of Gurbachan Singh Bachan or Piara Singh 'Panchhi'. Vidya Chander and S. R. Jagdish as already remarked are not independent persons.

107. In his statement in the witness box, the petitioner has stated that thirty-three workers mentioned at page 9 of the list of particulars were assigned by the respondent the duties of clerks and that the respondent could not employ more than five clerks in connection with his bye-election under Rule 118 read with Schedule VI to the Representation of the People Rule, 1951. No such plea was raised in the petition or in the list of the particulars and the petitioner cannot be permitted to set up a new case at the trial. An Election Tribunal cannot set aside an election on a ground not taken by the petitioner in the petition; if it does so, the decision of the Tribunal will be erroneous on the face of it and it can be quashed by a writ of certiorari. (10 E.L.R. 183). A similar view has taken in Sen and Poddar page 374. The Commissioners followed the Karnal Case (Nazar Ali Khan *versus* N. M. F. Khan) in which the petitioner led evidence about the exercise of undue influence by publication of objectionable poster in certain villages which were not mentioned in the petition. The Commissioners made the following observations in Karnal Cases:—

There is abundant authority for the view that a fresh instance of a corrupt practice cannot be regarded merely as an amendment of the particulars of such corrupt practice. Each single instance of corrupt practice alleged is a substantive charge and there can be no doubt that the corrupt practice stated to have been committed at the villages mentioned above which were not mentioned in the petition, constitutes fresh instances of the same corrupt practice, viz., undue influence by means of the posters. It would thus appear that if at any time during the hearing of this petition an application had been made by the petitioner for addition of the names of these villages and of the persons alleged to have made use of the posters in these villages, to his petition, that application would have been liable to rejection for the simple reason that it did not furnish further particulars of a corrupt practice already alleged in the petition, but added to the substantive charges of corrupt practice already contained in the petition. Among authorities having a bearing on this point may be cited Akyab (Indian Urban) 1928 (Hammond, 47), Bullandshahr East 1921 (Hammond, 219), Amritsar City (H), 1924, (Hammond, 85), Kistna (N.H.R.) 1928, (Hammond, 447) and Calcutta North (N.H.R.) 1924, (Hammond, 255)."

"It follows that the petitioner cannot be allowed to establish the commission of this corrupt practice as a corrupt practice under Part I

Sch. 1, Corrupt Practices Order, at any place not mentioned in this petition or in the lists appended thereto. The evidence which he produced from the 13 villages named above is inadmissible to establish any such corrupt practice."

108. In a recent case reported 10 E.L.R. 357, the Supreme Court observed:—

"The requirement of full particulars of all corrupt practices alleged in the petition including the names of the parties and the date and place of commission, enjoined by section 83(2) must be complied with, with sufficient fullness and clarification, so as to enable the opposite party fairly to meet them; and they must be such as not to turn the enquiry into a rambling and rowing inquisition."

109. In the case referred to in A.I.R. 1930 P.C. 57 their Lordships of Privy Council have observed:—

"Where a claim has been never made in the defence presented no amount of evidence can be looked into upon a plea which was never put forward."

110. In view of the authoritative pronouncements we cannot look into the plea of the petitioner that respondent No. 1 employed clerks in excess of the number permitted by the Rules. In fairness to the respondent we wish to add that he denied having employed clerks in excess of the number permitted by the Rules and swore that he got the work of copying of the voters lists done on contract basis, and there does not appear to be anything extraordinary about this.

111. Para. VII(7) of the petition deals with the alleged obtaining and procuring by the respondent, of assistance from Government Servants. The petitioner alleges that respondent No. 1 and his agents obtained and procured and abetted and attempted to obtain and procure the assistance (other than their votes for the furtherance of a prospects of respondent No. 1's election of large number of person serving under the Government of Punjab."

112. The first instance in which the respondent and his alleged Agents (Shri Achint Ram M.P. and Shri Chandi Ram Verma M.L.A. Abohar) are stated to have obtained help of Government Servants relates to the inauguration of the election campaign in an official meeting of the Panches and Sarpanches organised by S. Balbir Singh Randhawa, S.D.O. Fazilka.

113. No evidence has been led by the petitioner to prove this allegation.

114. This second instance in which the help of Government Servants is alleged to have been secured deals with the conduct of Shri Joti Sarup 'National' and S. Mohan Singh 'Sekhwan'. They are stated to have openly worked in connection with the bye-election in dispute. No evidence was led by the petitioner to show that S. Mohan Singh took any part in the bye-election. Evidence has been produced about the alleged activities of Shri Joti Sarup and is contained in the statements of Sarvshri Vidhiya Chander P.W. 2, Harbans Lal P.W. 9, Sunam Rai P.W. 14, Master Harkishan Das P.W. 17, R.S. Jagdish P.W. 18, and Sutinder Nath P.W. 34 and the petitioner as P.W. 35.

115. Shri Vidhiya Chander says that to his knowledge Shri Joti Sarup did not take any part in the election at Abohar. To the same effect is the evidence of Master Harkishan Das.

116. Shri Harbans Lal no doubt says that he saw Shri Joti Sarup ten or twelve days before the polling speaking on a microphone in the bazar asking the people to vote for the Congress and the respondent. He could not however give the number of car or jeep which was used by Shri Joti Sarup while speaking on the micro-phone.

117. Shri Sunem Rai says that during the last bye-election Shri Joti Sarup spoke something in a meeting at Fazilka but this is his impression, and he is not definite about it.

118. S. R. Jagdish has deposed that Shri Joti Sarup is employed in the Rural Publicity Department of the Government and used to recite poems in the meetings held in support of the respondent. Shri Sutinder Nath says that he saw Shri Joti Sarup making announcement about a public meeting in the month of May, 1954, at Abohar. The meeting was addressed by Shri Jagat Narain, the then Education Minister of Punjab, but no question was put to him on this point.

119. The petitioner as witness for himself has stated that he saw Shri Joti Sarup making announcement about the public meeting which was to be held to support respondent No. 1 on 30th April, 1954, in Chowk Ghanta Ghar Fazilka.

He told him that as a Government Servant he was not expected to do propaganda for the respondent. The witness adds that at a meeting held on the 8th May, 1954, at Fazilka, Shri Joti Sarup acted as a stage manager and that the meeting was addressed amongst other by Shri Bhim Sen Sachar and Shri Chand Ram Verma. This information was given to him by Shri Chand Ram Verma who has not been examined by the petitioner.

120. The respondent as a witness for himself denied having employed Shri Joti Sarup for propaganda work. He also led evidence to rebut the petitioner's witnesses.

121. The evidence produced by the petitioner is not only self contradictory but of highly partisan character and it would not be safe to rely on it.

122. The third instance in which Government servants are said to have worked for the respondent is based on the alleged deputing of Sarvshri Randhir Singh, Bhulla Ram, Baldev Raj and Puran Chand of Pathankot by Shri Parbodh Chander, the then Chief Parliamentary Secretary to the Chief Minister, for propaganda.

123. No evidence was led to show that the first three Government Servants took any part in the bye-election. As regards Puran Chand it is stated in list of the particulars that Shri Puran Chand, worked as a clerk, prepared lists of voters from April 20, 1954, onwards and addressed public meetings in support of respondent No. 1, e.g. those held in Abohar Mandi on April 25, 1954.

124. No one has come forward to depose that Shri Puran Chand, Rural Publicity Worker took any part in the bye-election. Reliance is, however, placed on a receipt at page 447 of the Return of Election Expenses of the respondent in which payment of a sum of Rs. 39 is shown to have been made to three persons including Shri Puran Chand. Below his name there is an addition of work 'Pathankot'. It is urged that Shri Puran Chand mentioned in the receipt and the list of particulars are the one and the same person. This is denied by the respondent who contents that Shri Puran Chand mentioned in the receipt actually belongs to Batala and is not employed as a Rural Publicity worker. It was for the petitioner to show that Shri Puran Chand mentioned in the receipt was a Rural Publicity worker. He has not led any evidence. His own statement is silent on the point. No inference adverse to the respondent can be drawn by the mere identity of names.

125. The fourth instance is based on the alleged canvassing by several lambardars for the respondent. The petitioner alleges "that" many lambardars were not only made to work and canvass for respondent No. 1 but were actually appointed Polling Agents by respondent No. 1 himself e.g., Dip Singh, son of Thakar Harnath Singh at Polling Station No. 51.

126. S. Dip Singh as P.W. 32 admits that he was appointed by the respondent as his polling agent but states that when it was pointed out to him that as a lambardar he could not become a polling Agent he refused to act as such. The appointment of lambardars as mere polling agents is however not hit by any provision of the election law. No evidence has been led to show that Shri Dip Singh took any part in canvassing or in furthering the prospects of election of the respondent.

127. Instances Nos. 5, 6, 7, 11 and 12 in which the assistance of Government Servant is alleged to have been obtained by the respondent or his agents, were ordered to be deleted *vide* our order dated 19th February 1955.

128. The eighth instance relates to the alleged partiality shown by certain Officer of Ferozepore District. The petitioner alleges "that meetings were held and loudspeakers used in contravention of the prohibitory orders under section 144 Criminal Procedure Code to the full knowledge of Shri S. Vohra, I.C.S., District Magistrate Ferozepore, S. Balbir Singh Randhawa, S.D.O. Fazilka and Ch. Bhim Singh S.D.O. Sirsa even after these facts were brought to their notices by the petitioner. When the petitioner's supporters protested against this, Shri Bhim Sain Sachar (the Chief Minister of Punjab) declared in the public meeting held in Ghas Mandi Fazilka on May 8, 1954 at about 10 P.M. that as the Chief Minister and Minister-in-charge of law and Order he did not require any permission from the D.M. Ferozepore and could address meeting without permission."

129. No serious attempt was made by the petitioner to prove the above allegation. Shri Bhim Sen Sachar as P.W. 27 has denied what is attributed to him by the petitioner.

130. The ninth instance also related to similar partiality alleged to have been shown by some of those officers. The petitioner alleges "that in spite of repeated written requests for permission to use loud-speakers the petitioner was not allowed the general use thereof, but respondent No. 1's agents used the same without permission (as told to the petitioner by Ch. Bhim Singh, S.D.O., Sirsa) even when this fact was brought to the notice of the said S.D.O. by the petitioner on or about May 3, 1954.

131. No attempt has been made by the petitioner to substantiate this allegation either. On the other hand Ch. Bhim Singh as R.W. 20 has denied having shown any partiality to any one.

132. The tenth instance relates to the alleged partiality shown by the officers. The petitioner alleges that "it was announced in public meetings on May 4, 5 and 6 and upto noon on May 7, that a public meeting in support of the petitioner would be addressed by S. Sajjan Singh, Chairman of the Punjab Praja Socialist Party on May 7, 1954 at 9 p.m. in Chand Chowk Abohar. In the afternoon on May 7, respondent No. 1's agents began to announce a meeting at the same place at 8 p.m. In spite of the petitioner's protests against the high handedness of respondent No. 1's agents and the assistance which they were giving to respondent No. 1, Shri S. Vohra, I.C.S., D.M. Ferozepore and S. Balbir Singh Randhawa S.D.O. Fazilka, under the influence of Shri Parbodh Chander Chief Parliamentary Secretary threatened petitioner and his workers with action and forced them not to hold their meeting before 10-30 p.m. even at a different place."

133. No attempt has been made to prove even this allegation.

134. The last i.e. the thirteenth instance is based on the use of drivers and Government cars by the Ministers and Shri Parbodh Chander, the allegation of the petitioner being "that all the ministers of the Punjab and Shri Parbodh Chander Chief Parliamentary Secretary to the Chief Minister of the Punjab who visited the constituency and moved in the Illaqa for days not only used Government cars but obtained and procured the assistance of their drivers (who were Government servants) for election purposes."

135. In the list of particulars it is merely stated, that No. 13, is self explanatory.

136. It is strenuously argued by the learned counsel for the petitioner that canvassing was done by the Minister of the Punjab for respondent No. 1 and this amounts to corrupt practice within the meaning of sub-section 8 of section 123 of the Representation of the People Act. We have carefully examined the petition and the list of particulars and are definitely of the view that there is no averment in of the respondent having obtained or attempted to obtain the assistance of the Minister for the furtherance of the prospect of his election. As such the petitioner cannot be permitted to take his stand on this plea. The gravaman of the charge against the Ministers and the Chief Parliamentary Secretary is that they as agents of respondent No. 1 procured the assistance of their drivers who were Government servants, for election purposes.

137. It is however, urged on the petitioner's behalf that an Election Tribunal is competent to take note of a corrupt practice though not mentioned in the petition, if admitted by the parties or their agents to have been committed. Reliance is placed on Sen and Poddar 28, 243 at page 247, 8 E.L.R. 424 and A.I.R. 1955 Supreme Court 830.

138. In the first ruling the allegations made by the defeated candidate included three cases of personation and abetment thereof by agents of the respondent, the offering of bribes to voters on three separate occasions by agents of the respondent, the exercise of undue influence by respondent himself and three other persons on his behalf, the publication of false statement by two of these persons and respondent himself, the publication of false statements and the exercise of undue influence by an agent of the third candidate, Sheikh Hisam-ud-din, the commission of material irregularities by officials in charge of polling stations, and finally the falsity in material particulars of the respondent's return of election expenses. By an interim order, the last allegation was struck out for failure to specify the necessary particulars.

139. The then respondent, in his written statement denied all the allegations. The then petitioner made no attempt to establish by evidence the allegation of material irregularities, by officials, and as regards the charge of bribery, he produced only two witnesses, whose evidence was wholly insufficient to establish his case. He confined himself both during evidence and arrangements to three instances including the one set out below:—

"That Maulana A. Shah Bokhari, in a speech at the idgah in Amritsar, made in support of Sheikh Hisam-ud-din, declared that it was *Haram* to vote for a candidate set up by the Unionist Party (in this case the petitioner) and also obtained promises on oath from the audience that they would vote for Ahrar candidate, Sheikh Hisam-du-din; it was alleged that similar speeches were made by him and the oaths were taken at many other Ahrar meetings and it was argued that so large a number of voters was affected by it that the election was rendered not a free election and in any case, sufficiently large number of voters were influenced by the speech and the taking of oaths, to produce a material effect on the result of the election."

140. No such allegation was however made in the petition. There, the allegation only was that the Maulana made his audience take oaths to vote for Sheikh Hisam-ud-din and used spiritual threats against persons who did not vote for him. The Commissioner's remarked "there is authority to the effect that where a returned candidate, who is a respondent, himself admits the commission of a corrupt practice, the Commissioners may find that he was guilty of such corrupt practice even though it was not specifically alleged in the petition *vide* Rangoon West (G.U.) 1926 (Hammond page 605, Bareilly City (N.H.U.) 1924, (Hammond page 127). We consider that there is no material difference between a case where an admission of this kind is made by a respondent and one where it is made by an agent of an unsuccessful candidate, who has been named in the petition, so far as concerns the recording of finding that such corrupt practice has been committed."

141. The same commissioners took a somewhat different view in an other petition reported as Sen and Poddar 337. The following passage from this decision may be quoted *in extenso*:—

"The procuring by a candidate or his agent of an application by a person for a voting paper in the name of any other person, is a corrupt practice included in para I of the First Schedule. It is argued that the wording of Section 7(1) (b) does not preclude the Commissioners from arriving at a finding on the evidence that a corrupt practice has been committed, although such corrupt practice was not specifically alleged in detail in the petition or the list appended thereto. Learned counsel for the petitioners however had to admit that he had been unable to discover any previous case in which Election Commissioners had held a corrupt practice to be established which had not been alleged by the petitioner except in two cases, where such corrupt practice was established by the admission of the respondent (the returned candidate). These two cases are Rangoon West (G.U.) 1926 (Hammond, Page 603, and Bareilly City (N.M.U.) 1924 (Hammond, Page 127). Certain remarks made by the learned Commissioners in the former case appear to go directly against the argument of the learned counsel:—

"It is argued that even supposing that the treating of the Hpengyis is held to be a corrupt practice we are not entitled to take it into account as it was not alleged in the charges originally framed. While agreeing that our functions are judicial not inquisitorial, and that we are not entitled to go into evidence on charges which were not contained (at least by reasonable implication) in the charges originally framed, we have no hesitation in saying that where a party himself admits that he has been guilty of what is *prima facie* a corrupt practice we are bound in the absence of a satisfactory explanation to take cognisance under section 44(1) of the Burma Electoral Rules of that admission and to report accordingly."

"In the second case it was brought out in cross-examination of the respondent himself that on the polling day he provided a conveyance to carry his voters to the poll, which was at that time a corrupt practice. This had not been alleged in the petition, but on the basis of the respondent's own admission, which was supported by other evidence, the Commissioner had corrupt practice in question to have been established. We are in respectful agreement with the view expressed in the Rangoon (G.U.) 1926 case that our functions are

judicial and not inquisitorial and we further feel that to allow the petitioner to establish in evidence a case which he does not specifically allege in his petition and the list appended thereto, would be tantamount to allowing him to defeat the mandatory provisions of Rule 8 of the Punjab Legislative Assembly Electoral Rules, 1936. The only case in which departure from the principle has been made by the Election Commissioner in the past are those in which a corrupt practice not alleged in the petition was admitted by the respondent himself to have been committed and we feel that we would not be justified in extending that principle to cases in which there is no admission by the respondent but where the petitioner produces evidence contrary to the clear and specific allegations made by him in respect of a particular case."

142. Sen and Poddar (28) was also discented from in 8 E.L.R. 265, wherein it was held:

An Election Tribunal has no power to inquire into corrupt practices which are not set up in the election petition or the list of particulars even though they are admitted by the respondent."

143. In the present case even there is no admission by the respondent at any stage of the proceedings, that he committed the corrupt practice of obtaining or attempting to obtain the assistance of Ministers for furthering the prospects of his election.

144. In the second ruling "Council for respondent objected to the scrutiny of the entire accounts because Counsel for petitioner had in his examination under Order 10, Civil Procedure Code, limited his objection to the omission of the description of the payees in the return of election expenses and in the vouchers filed with the return. Considering the importance of the filing of a correct return and maintenance of proper accounts the Commissioners remarked that the petitioner should be not held bound by his counsel's statement in the opening of the case and the entire return filed by the respondent should be subjected to scrutiny."

145. This ruling has obviously no application to the facts of the present petition.

146. In 8 E.L.R. 424 it was remarked:—

"Corrupt practice must generally be pleaded and proved by the petitioner but in the interest of justice if a corrupt practice comes to the notice of the Tribunal from the admission of the respondent the Tribunal is bound to take notice of it."

147. The decision does not contain any discussion or the reasons which led the Tribunal to the above conclusion.

148. In the last case (S.C.) the allegations in the petition relating to corrupt practice of bribery were as follows:—

"The sweepers of Small Town Committee, Dhuri were each granted good work allowance at Rs. 5 p.m. for three months only during Election days, simply because they happened to be voters in the said constituency vide letter No. SI/1(4)/52/20702 dated 7th December 1951. All this was done to induce these sweeper to vote for respondent No. 1. The allowance was against the Rules." The reply of the appellant to this charge was as follows:—

"The sweepers of Small Town Committee represented to me in writing that their pays should be increased, and they also quoted the pays that the employees of other Committees were getting. The representation was forwarded to the Secretariat. The Secretariat examined it on merits, passed legal orders. Such concessions were also shown to other employees of the various Small Town Committee and Municipal Committee in Pepsu before and after this case.

This was an official act done in the routine and not to induce the sweepers to vote for respondent No. 1."

149. On these avertments, the following issue was framed:

5. Whether the sweeper of Small Town Committee, were granted good work allowance at Rs. 5 p.m. for three months only during the election days in order to induce them to vote for respondent No. 1?

At the trial, the petitioner examined the Daroga of the Small Town Committee (P.W. 28) and five sweepers P.Ws. 12, 13, 14, 39 and 40 and there evidence was that sometime in November 1951 the appellant came to Dhuri, enquired about the number of sweepers in the service of the Committee, and offered to raise their pay if they would vote for him, that the sweepers thereupon held a meeting and considered the suggestion of the appellant, and then decided to vote for him if the pay was increased." "The appellant was then Minister for Health, and was incharge of Local Administration. On 26th November 1951 he passed an order on a memorial sent by the sweepers that their pay would be increased by Rs. 5 per mensem. Objections to the order was taken by the Department, and thereupon, the appellant passed the modified order dated 7th December 1951 granting good work allowance for a period of three months from December, 1951 to February 1952."

150. "The Tribunal accepted the evidence on the side of the petitioner that the appellant offered to increase the salary of the sweepers in 1951, and held that the order dated 7th December 1951 granting good work allowance for the election period was the outcome of the bargain made in November 1951, and that the charge of bribery had been established."

151. "It was contended for the appellant before the Supreme Court that in the petition there was no mention of the bargain on which the finding of bribery by the Tribunal was based, that the charge in the petition related only to the order dated 7th December 1951, and that accordingly it was not open to the petitioner to travel beyond the petition and adduce evidence in proof of a bargain which had not been pleaded. The Supreme Court remarked:—

152. This is to put too technical and narrow a construction on the averments. The charge in the petition was not merely that the appellant had passed the order dated 7th December 1951 but he had passed it with a view to induce the sweepers to vote for him.

"That clearly raised the question as to the circumstances under the order came to be passed, whether it was in the course of official routine as the appellant pleaded, or under circumstances which were calculated to influence the voters. Issue No. 5 put the matter beyond doubt, when it pointedly raised the question whether the grant was *for three months only during the election days in order to induce them (the sweepers) to vote for respondent No. 1.*" "Under the circumstances the complaint that the evidence and the finding as to the bargain went beyond the pleadings and should be ignored, appears to be without any substance."

153. In the case before us there is complete absence of any plea either in the petition or in the accompanying list of particulars that the respondent obtained or attempted to obtain the assistance of the Ministers for furthering the prospects of his election, so far so that we do not even find a mention therein of any factual statement that Ministers, are persons serving under the Government of a State. The relevant issue in this case also concerns the corrupt practices mentioned in the petition read with the particulars and makes no reference to the Ministers. The Supreme Court Ruling can therefore be of no help to the petitioner.

154. In the view that we have taken, the further question whether Ministers are persons serving under the Government of any State and whether canvassing by them in support of a candidate amounts to corrupt practice within the meaning of section 123(8) of the Representation of People Act, 1951, do not arise. These questions have however been argued before us at some length. The petitioner could only cite the decision of Raipur Tribunal in "Thakar Das Singh Versus Shri Ram Krishan Rathor and others" published in the *Gazette of India Extraordinary Part II* dated 8th December 1954 in support of his contention. In this case although the members of the Tribunal were unanimously of the view that Ministers were persons serving under the Government of a State, the majority view on the other question, i.e. whether canvassing by Ministers amounted to a corrupt practice was against the petitioner, and the petition was also held liable to dismissal on the ground that the facts necessary to constitute a corrupt practice within the meaning of section 123(8) had not been pleaded.

155. On behalf of the respondent reliance has been placed on the rulings reported as 7 E.L.P. 374, and 10 E.L.R. 54.

156. In 7 E.L.R. 374 it was held that "mere proof of appointment and dismissal and payments of honorarium from the Government Treasury and general supervision or control cannot make a person servant of the Government, if he has not agreed to be subject at all times to the orders and directions of the Government not only with regard to the nature of work but also in the manner of doing it.

157. In the second ruling 10 E.L.R. 57 it was held:

"Ministers are prominent members of their party and in that capacity they are entitled to address meetings and to tell people what their party had done and what its programme was and to ask them to vote for the candidate set up by their party. Such an action of the Ministers cannot be held to amount to 'exercising undue influence.' "Ministers are officers appointed by the Government but they are in no sense servants of the State Governments, and the rules requiring Government servants to refrain from taking part in election propaganda or in any other way assisting a candidate in an election, do not apply to them. Canvassing by them would, not, therefore, be a corrupt practice under sub-section (8) of Section 123 of the Representation of the People Act, 1951." "Though according to the law in England, no Minister of the Crown or Crown servant and no member of the Police office, should engage in canvassing or be appointed or accepted as a canvasser, there is no law in India prohibiting the State Ministers from taking part in canvassing votes for others. Though they wield considerable influence, and when they canvass, they use that influence, the influence cannot be called undue influence, as the law does not prohibit canvassing by Ministers and it is not illegal for them to use that influence."

If a Minister redresses the grievances of class of public or people of a locality or renders them any help on the eve of an election he would not be guilty of a corrupt practice unless he obtains a promise from such people or imposes a condition on them that they should vote for him or any other candidate at the election."

158. We are in respectful agreement with the view expressed in the above ruling which is a well reasoned and exhaustive discussion on the subject.

159. Coming to the corrupt practice alleged in the petition i.e. the obtaining of assistance by the Ministers as Agents of the respondent from their drivers who are Government Servants the position of the petitioner is equally hopeless, for the obtaining of assistance in order to be hit by the provisions of Section 123(8) should be from a person whose position involves a scope for coming into play of authority associated with his official status and the drivers merely to the mechanical job of driving the cars and this can in no way further the prospects of a candidate's election.

160. To sum up the petitioner has failed to prove any one of the allegations made in para. No. VII of the Election Petition and the issue is found against him.

Issue No. II.

161. This issue concerns para. IX of the petition. The allegation is that "respondent No. 1 and his agents issued a large number of circulars, placards and posters having reference to the bye-election in dispute which did not bear on their faces the names and addresses of the printers and publishers thereof (Section 123(3)).

162. The list of particulars contains a table in which twenty-two documents are mentioned to have been issued by respondent No. 1 and his agents.

163. The first two documents which are similar to Ex. P. 2 and P. 3 bear the names of the printer and the publisher and their addresses.

164. The rest of the documents are said to have been issued without the names of the printers and publishers.

165. The arguments of the petitioner is, that the circulars etc. should have not only the name but also the addresses of the publishers and printers and that although some of the documents give the name of the press but this is not enough compliance with the law, and that the respondent should have given separately the names of the printers and the publishers. He relies upon Tipperah case (Sen and Poddar 802) wherein it has been laid down that

"unless an electioneering pamphlet shows clearly on its face that the printer and publishers are the same, the name and address must be separately given". The observation made above no doubt supports the petitioner's contention. In South Saran Case (2 Hammond E. P. 250 at 252) however it is observed as under:

"The name of the press may be taken as the trade name of the printer; and by the comity and custom of the printing trade, the printer of a pamphlet is assumed to be the publisher also."

166. South Saran Case was followed by the Majority of the Tribunal in 7 E.L.R. 301. The present petitioner himself figured as the petitioner in that case. The observations made in South Saran Case are however inapplicable to the present case for it is admitted by the respondent that all the documents excepting those at serial Nos. 5 (Ex. P.14), 6 (Ex. P.13), 7 (Ex. P.17), 9 (Ex. P.15), 10 (Ex. P.16), 11 (—), 12 (Ex. P.18) and 15 (Ex. P.25) were published and printed at his instance. Thus the name of the press cannot be taken as the name of the printer and publisher by custom of the printing trade in this case.

167. We have already found that the document at serial No. 9 (Ex. P.15) was not published and printed at the instance of the respondent or his agents. It is next to be seen if the petitioner has succeeded in showing that the other seven documents mentioned above were printed and published at the instance of the respondent or his agents.

168. No attempt has been made by the petitioner to show that respondent No. 1 or his agents had any hand in the printing and publication of document at serial No. 11. For the other six documents he relies on the evidence of Sarvshri Vidhiya Chander P.W. 2, Ganga Bishan P.W. 31, and Sutinder Vidhiarthi P.W. 34 and his own statement as P.W. 35.

169. Shri Vidhiaya Chander P.W. 2 has stated that hand bills Ex. P.13 and Ex. P.14 were printed by him at the instance of the respondent, and hand bills Ex. P.16 and two other were printed by him at the instance of Jagdish Chander P.W. 4, who had placed an order on behalf of S. Darbara Singh, Giani Gurmukh Singh Musafir and President, District Congress Committee, whilst hand bill Ex. P. 17 was printed by him at the instance of Shri Jagdish Chander who had delivered letter for printing under the signature of Shri Radha Krishan P.W. 4. Hand Bill Ex. P.18 is in Urdu. Shri Vidhiaya Chander had no arrangement for Urdu Printing. He claimed to have got it printed at Amrit Electric Press, Ferozepore City. No attempt has been made by the petitioner to examine the owner or the manager of Amrit Press to show that any order for printing was placed with the press by Vidhiaya Chander. Moreover, Shri Vidhiaya Chander is not an independent or disinterested witness, and his evidence has already been discussed by us.

170. Shri Radha Krishan as P.W. 4 was not prepared to support Vidhiaya Chander. He could not say whether hand bill Ex. P.17 was printed by Hari Press under his instruction, unless the original manuscript was shown to him. Jagdish Chander R.W. contradicts Vidhiaya Chander by deposing that he never saw any documents similar to Ex. P.13 to Ex. P.18.

171. Shri Ganga Bishan says that a poster similar to Ex. P.25 was picked up by the petitioner near the Canal Rest House, Sirsa during the bye-election. It had dropped from a tree. This does not mean that respondent had any hand in its printing and publishing.

172. Shri Sutinder Nath has said that posters similar to Ex. P.7, P.8 and Ex. P.25 were issued on behalf of the respondent. His evidence is of highly partisan character and cannot be relied in the least. The petitioner as witness for himself has said that he found poster Ex. P.25 near the Canal Rest House, Sirsa on the 9th May, 1954, that he saw posters similar to Ex. P.15, Ex. P.16 and other in the Central Election Office of the respondent at Abohar, and that he wanted to take them away but Shri Wazir Chand Sikka R.W. 3 snatched them from his hand. According to him it was mutual understanding between them that they would exchange all the posters etc, and although he fulfilled his undertaking, but Shri Wazir Chand only supplied him with some of the posters and not with Ex. P.15 and Ex. P.16. Shri Wazir Chand was never questioned about the alleged undertaking or the snatching away of any posters from the petitioner. He denied that any posters like Ex. P.13 to Ex. P.18 and similar to Ex. P.25 had been issued from the Election Office of the respondent at Abohar. It is unnecessary to discuss the respondent's evidence at length as the petitioner

has failed to fix the responsibility for the printing and publishing of posters Ex. P.13, Ex. P.14, Ex. P.16 to Ex. P.18 and Ex. P.25 on the respondent or his agents. It is sufficient to say that the issuing of the posters Ex. P.13 to Ex. P.18 and Ex. 25 is denied by the respondent as R.W. 26 and his witnesses Jagdish Chander P.W. 2, Shri Wazir Chand R.W. 3 and S Pritam Singh R.W. 11.

173. With regard to the remaining documents in the table the respondent's case is, that two of them at serial No. 18 and 22 do not fall within the category of circulars placards or posters, and that the other documents were stamped, with a rubber stamp containing the name of the printer and publisher before they were issued.

174. The document at serial No. 18 is a badge which was meant to be issued to the workers and that at number 22 is a chit which was meant to be issued to the voters on the polling days. It is said that both were not brought into use on the polling days.

175. The issuing of circulars, placards or posters having a reference to the election which do not bear on their faces the names and the addresses of the printers and publishers is one of the illegal practices mentioned in section 125 of the Representation of the People Act. The words Circular, placard or posters are not defined in the Representation of the People Act or in the General Clauses Act. They have been used in their ordinary dictionary meaning.

176. In the Universal English Dictionary, circular is defined as:—

"Document generally trades-mans advertisement or a notice of any kind of which many copies are issued at the same time and sent round to a number of people."

Placard is defined as:

"A single sheet of paper with written or printed notice on one side for display on walls etc. as public notice advertisement etc. (verb) To fix paste a placard on: and Poster is defined as:

"A bill or placard usually of a striking or decorative design posted on walls or board for advertising purposes etc."

177. Keeping in view the above definitions we are of the opinion that badges and the chits are not covered by the provision of Section 125 of the Representation of the People Act, 1951.

178. As regards the plea of affixing rubber stamps, very satisfactory and convincing evidence has been produced by the respondent. There is first the statement of Jagdish Chander R.W. 2. He has deposed that the posters issued on behalf of the respondent were first stamped with a rubber stamp giving the name of the printer and publisher of the posters. He is corroborated by Wazir Chand R.W. 3 and Nand Lal R.W. 6 who distributed posters similar to Ex. R.W. 4/1 having the name of the printer and publisher with a rubber stamp. S. Attar Singh R. W. 7 who came across posters similar to Ex. P.5 with a rubber stamp on them, Shri Ghan Chand R.W. 9, Shri Pritam Singh R.W. 11 and respondent as R.W. 26. S. Pritam Singh is an important witness. He has deposed that it was his duty to affix stamp on the posters before issuing them. The stamp was in his name. The only criticism that can be levelled against these witnesses is that they are either Congress-men or the helpers of the respondent but the evidence of these witnesses finds strong support from the testimony of some of the petitioner's own witnesses and other circumstances. Shri Radha Kishen P.W. 4 has stated in cross-examination that he received a latter similar to Ex. P.23 (at serial No. 19 of the table) bearing a rubber stamp indicating the name of printer and publisher i.e. S. Pritam Singh with his parentage. S. Karam Singh P.W. 22 says that all the posters issued by the respondent and which he came across bore the rubber stamp of the publisher and the printer and then there is strong documentary evidence in the shape of a voucher at page 977 of the Return of Election Expenses lodged by the respondent, which shows that a Rubber stamp had been purchased by the respondent on 6th April, 1954 and there is no suggestion that other rubber stamp could there be except the one required for stamping the posters etc. with the names of the printer and publisher.

179. Some of the petitioner's witnesses have no doubt stated that the posters issued by the respondent bore no rubber stamp giving the name of the printer and publisher, i.e. Vidhlaya Chander R.W. 2, Daulat Ram P.W. 3, Jagdish P.W. 18 and Sutinder Vidhiarthi P.W. 34 and the petitioner himself as P.W. 35 has also deposed that none of the posters issued on behalf of the respondent had a rubber stamp giving the name of the printer and publisher but we do not find any reason why these statement should be preferred to those of the respondent

and his witnesses supported as they are by some of the petitioner's own witnesses and by the voucher referred to above. The petitioner's own statement is very unsatisfactory. He has shown that the documents Ex. P.2 and Ex. P.3 were issued by respondent S. Iqbal Singh after he (the witness) had circulated a printed copy of his notice Ex. P.30 with a rubber stamp showing the names of the printer and publisher on it. According to him this notice did not bear the names of the printer and publisher, therefore, he had to affix a rubber stamp. By this he implies that the respondent got the idea of having the name of the printer and publisher on the posters, after seeing the rubber stamp on his notice Ex. P.30. However a bare look at Ex. P.30 shows that the name of the petitioner is printed thereon as the printer and publisher of it, and the statement made by the petitioner on this point is definitely incorrect. Moreover the voucher referred to above shows that the rubber stamp had been purchased by the respondent as early as 16th April 1954. The respondent on being questioned by the petitioner's counsel whether he had got this poster stamped with a rubber stamp after seeing the petitioner's stamp on Ex P.30, made a definite denial.

180. Lastly this fact is also not to be lost sight of, that none of the posters admitted or proved to have been issued on behalf of the respondent contains any objectionable matter on account of which the respondent wanted to conceal the identity of the printer and publisher. In this connection reference may be made to the rulings reported at 4 E.L.R. 188 at page 198, and 7 E.L.R. 301 at page 307—

181. The issue is also thus found against the petitioner.

Issue No. 3.

182. The allegations covered by this issue are given in para X of the petition. The petitioner alleges "that the result of the election was materially affected by non-compliance with the provisions of the Representation of the People Act, 1951 and the Rules made thereunder Re:

- (1) Appointment of polling agents and giving of notice thereof to the Returning Officer within the period prescribed under the Rules [Section 46 Rule 12(2)];
- (2) Prohibition against canvassing in or near polling stations and exhibiting "Pandit Nehru Ka Firman" and "Congress Ka Intkhahi Nishan" within the prohibited radius of 100 yards (Section 130);

183. No serious attempt was made to prove the above allegations and there is no evidence on the record that the alleged irregularities were in fact committed by the Returning Officer or by the respondent or his agents. Moreover setting up of a canvassing office within 100 yards of a polling booth is an electoral offence no doubt, but not a corrupt practice, and cannot by itself violate an election. Even if it be a breach of section 130 of the Act, the election cannot be set aside unless there is proof that the result of the election was materially affected thereby.

184. Under the law in India as enacted in section 100 of the Representation of the People Act, 1951, mere proof of non-compliance with the Rules is not sufficient to avoid an election, it must further be shown that the result of the election was materially affected thereby and the burden of proving this is on the petitioner who challenges the election, though it is otherwise under the English law and the issue is found against the petitioner.

Issue No. 4.

185. This issue covers the allegations made in para VIII of the petition. The petitioner alleges that "the Return of Election expenses lodged by respondent No. 1 with the Returning Officer is false in material particulars, and so is the declaration made by respondent No. 1 for the verification thereof (S.124).

186. The word "false" in section 124(4), which makes the filing of a false return of election expenses a corrupt practice, is not equivalent to "incorrect" but means "deliberately false", and implies a corrupt motive; omission to include a minor item of expenditure would not therefore amount to a corrupt practice under section 124(4) where the total amount spent is much below the maximum allowed by law.

187. A mere omission of a particular item of expenditure in the Return of Election Expenses which is not prompted by any corrupt motive would not make a Return 'false' within the meaning of Section 124(4) (7 E.L.R. 338).

188. A return cannot be said to be false merely because the notional hire of cars borrowed from other is not included in it and it is sufficient to show the actual expenses incurred by the candidate (7 E.L.R. 374).

189. Even the fact that regular accounts of election expenses have not been kept does not lead to a necessary inference that the return of election expenses is false. Whether an inference of a corrupt motive can be drawn depends on the facts and circumstances of each case (7 E.L.R. 374).

190. In 9 E.L.R. 67 it has been remarked:—

“Amount paid by a candidate to the Congress Parliamentary Board for being nominated by the Congress in an ‘Election Expense’ contemplated by Chapter VIII of the Representation of the People Act, 1951, even though the expenditure was incurred before the date of nomination, and should be shown in the return of election expenses. Omission to mention the expenditure in the return would not, however, amount to a minor corrupt practice under section 124(4) unless such omission was prompted by a corrupt motive.”

191. A number of rulings have been cited by the petitioner disavowing the correctness of the proposition enunciated above. They are Hammond 349, 231, 397, 83, 101, and 677, Sen and Poddar 34, 93, 261, 374, 649 and 625, 3 E.L.R. 197 and Gazettes of India Extraordinary part II dated the 7th September, 1954, 15th November, 1954, 22nd November, 1954 and 29th December, 1954.

192. In Hammond 349 it is remarked:—

That the filing of a false return of election expenses is an illegal, not a corrupt practice and particulars of omission in the declaration of election expenses need not be given. This ruling is based on the law when “Rule 33(1) provided that the petition should contain a statement in concise form of the material facts on which the petitioner relied, and Clause 2 of the rule laid down that the petition should be accompanied by a list setting forth full particulars of any corrupt practice which the petitioner alleged. According to this Rule only the full particulars of a corrupt practice were required to be set forth and not of any illegality or non-compliance, or breach of the rules or regulations, or any defect, in the procedure. It was, therefore, not necessary that the particulars of a false return should be given in the petition.” but under the law as it now stands, it was held in 7 E.L.R. 338 at page 360 and 361, that definite charge of falsity has to be made in the petition regarding each item.

193. A perusal of Hammond 231 would show that although the election return did not give an adequate description of the payees and the respondent had not kept regular accounts, no importance was attached to these irregularities. The election was set aside on two different grounds not raised by the petitioner himself, but noticed by the Commissioners; one of them was the failure of respondent's agent to sign the return and the other the failure of the respondent and his agent to show in para ‘C’ of the return the details required by Rules. This ruling was also under the old law.

194. In Hammond 387, some of the vouchers for amounts exceeding Rs. 5/- had not been submitted, and in other instances First Class railway fares had been shown although the respondent and one of his agents had travelled together in Second Class. The return was not held to be false in material particulars in spite of these irregularities. This ruling goes against the petitioner.

195. In Hammond (83) a large number of items of expenditure were not shown in the account. The Rules required regular account to be kept. The Commissioners came to the conclusion that the Rules had been flagrantly disregarded by the respondent and his election agents, although they were carrying on extensive business and knew how to keep accounts. Consequently the return of expenses based on such accounts was not accepted as reliable and the return was held to be false in material particulars. This ruling was also based on the law.

196. In Hammond 101 certain expenses including expenses on account of entertainment of voters were omitted from the return. The Commissioners held that the expenses on account of treating the voters amounted to corrupt practice. The omission was apparently intentional.

197. In Hammond 677 the respondent had advanced large sums of money to various persons to carry on election campaign on his behalf in the constituency. The amount was shown in part D of the Return. How much of the sum advanced to them was spent and in what way it had been spent did not appear from the Return. The Commissioners held that the return was false in material particulars. This decision was also under the old law.

198. Sen and Poddar 34 goes against the petitioner for it emphasises that the return must be proved to be deliberately incorrect. In other words corrupt motive must be shown. The motive may be to omit legitimate expenses from the return where maximum has been fixed or the intention may be to conceal expenditure or other details which would go to prove the Commission of some offence. On consideration of the return and the objections the Commissioners came to the conclusion that the rules regarding proposition of the return had been flagrantly disregarded that there was a design throughout to create confusion and withhold all details that could possibly be of any use to fix the respondent with the commission of any corrupt practice, and that the return was deliberately false in several material particulars.

199. In Sen and Poddar 93 the election was challenged amongst other grounds on the plea, that, the expenses incurred by the returned candidate were in excess of the amount prescribed by law, and that the number of the persons employed by the candidate was far in excess of the prescribed number. Two documents indicated that some money had been spent by a person, who was also held to be an agent of the respondent. The amount spent by the agent exceeded the maximum prescribed by the rules. The election was set aside. This ruling also goes against the petitioner and shows that the return must be proved to be deliberately false.

200. In Sen and Poddar 261 the election of the respondent was challenged on numerous grounds. The charges that remained after striking out most of them were two: (a) whether the return of the election expenses filed by respondent No. 1 was made in proper form and (b) whether the said return was false in material particulars as alleged. The Commissioners found that payment had been mentioned in lump sums in parts A, B and C of the return without full details of the nature of the expenditure incurred on each item. The expenditure of printing of certain posters by the respondent was not shown in part E. The accounts on which the return was based had not been regularly and methodically maintained and were practically useless for the purpose of elucidating the details of the expenditure connected with various items. The Commissioner held that "lodging of a return defective in the manner aforesaid makes the candidate liable to disqualification under Section 69 (1)(f), Government of India Act, 1935, though his election may be valid. The ruling followed Tripperah H.M.R. 1937 (Sen and Poddar 819).

201. In the next case (Sen and Poddar 649) it was found that some of the voters were fed and entertained, on the evidence the Commissioners were unable to hold that the entertainment exceeded the limits of customary hospitality. Not a plea was shown in the return of election expenses lodged by the respondent to have been spent under this head. Another item omitted from the return was the cost borne by the respondent of printing a rejoinder in the name of a name-lender. The Commissioners came to the conclusion is that the return was false in material particulars, as obviously the omission were deliberate.

202. In Sen and Poddar 625 the Commissioner were satisfied that the respondent's return of election expenses was not a correct statement of the moneys received and the expenses incurred in connection with the election. There were omissions of several items which had been spent for decorations and lighting at public meetings, and numerous service which the supporters and workers in the cause of the respondent have in promoting the election with his knowledge had not been acknowledged, nor their value shown in the return. The items which had been shown did not also represent the amounts actually received and expended. They therefore came to the conclusion that the return was false in material particulars.

203. In 3 E.L.R. 197, the allegation was that if all the expenses omitted were included the sanctioned limit of Rs. 5,000/- would be exceeded. The Tribunal was satisfied that the return of expenses filed by the contesting respondent was false in material particulars, as he had deliberately failed to include in the return of expenses a sum amounting to Rs 7566/11/- in respect of several items; to keep the return within the sanctioned limit.

204. In the case reported as Sri Shankri Gowada, Vs. Shri S. M. Mariyappa and other published in the Gazette of India Extraordinary dated 7th September, 1954, the return of expenses was impugned by the respondent as being defective in material particulars on the ground that the expenses exceeded the maximum limit of Rs. 5,000/- prescribed for the Assembly Election. This was found to be correct.

205. The Tribunal has remarked "the omission in the part of the first respondent to enter payments made by him to Dodda Appaji for his joint family from the said sum of Rs. 4,500/- also goes to the root of the correctness of return of election expenses."

206. In the second case reported as *H. R. Meganathan Vs. K. T. Kosafram* and others published in the Extraordinary Gazette of India dated 15th November, 1954, the allegations similarly were that respondent No. 1 had actually incurred expenditure in excess of the maximum of Rs. 8,000/- prescribed by schedule 5 of the Act, and had employed propagandists in contravention of the act and the rules made thereunder. The first ground was found against the petitioner and the other in his favour and the election was set aside.

207. In the case reported as *Shri Tara Chand Versus Shri Hanuman Parshad* and others published in the Gazette of India, dated 22nd November, 1954, it was alleged that expenses of printing of certain leaflets were not included in the return. Their non-inclusion was not due to mere inadvertence but was deliberate for one of the persons issuing the leaflets was a Government Servant in the Service of the Government of Uttar Pradesh, and the inclusion of the printing charges in the return would have amounted to an admission on the part of the respondent, of the commission of the corrupt practices mentioned in section 123(8) of the representation of the People Act.

208. In the last case *Bajinath Singh Versus Kunwar Ranajaya Singh* and others published in the Gazette of India, dated 29th December, 1954, also, the allegations were that the respondent had exceeded the prescribed maximum limit of election expenses and had managed on payment more persons than the number permitted by law. These allegations were found to be correct.

209. It is thus clear that almost all the authorities cited by the petitioner go against him and rather support the respondent's contention, that before a return is held to be false in material particulars it must be shown that the inaccuracy or defect is a result of deliberate and corrupt intention. Bearing this principle in mind we now proceed to discuss the various grounds given in the list of the particulars for impugning the return.

210. The first objection against the return is that "in no part of the Return names and description of payees have been properly given—in most cases, no addresses have been given, e.g. of those whose vehicles respondent No. 1 hired; of persons whom respondent No. 1 employed for preparing list of voters. See also item supported by voucher No. 217.

211. A similar objection was raised in *Sen and Poddar* 468 at pages 419—480 but it has been held that unless corrupt motive is shown, the return cannot be held to be false in material particulars on this ground. It was remarked that there was no suggestion that the payees were fictitious persons, and in the present case also there is no suggestion that the payees were fictitious persons.

212. The absence of a voucher or lack of full description of payee is a mere technical defect and is to be ignored: *Bulandshahr East I.E.C.D. Vol. II* page 180.

213. The second objection is "Many items of expenses have been shown in lump sums without any details at all. Where the same are supported by vouchers, the vouchers also do not give any particulars of the 'Account' on which the same were incurred, e.g., Rs. 200 paid to Punjab Pardesh Congress Committee Gobindgarh mentioned in part K of the Return".

214. This is a vague and frivolous objection.

215. The third objection is "that in no part of the Return have expenses been vouched. What are called 'vouchers' by respondent No. 1 are no vouchers at all. Moreover an overwhelming majority of the same are neither stamped nor signed by the payees. The numbering of the so-called vouchers have not been done on any sensible basis, e.g. Nos. 41, 42, 56, 61, 89, 95 to 97, 103, 114, 115, 135, 168, 169, 170, 177, 179, 185, 196, 203, 205 to 207, 211 to 213, 225, 226, 229, 230, 238, 243, 244, 247, 251, 149, 151, 181, 188, 215, 277, 316, 317, 322, 368, 14, 126, 161, 189, 32, 119, 227, 231, 239, 259, 295, 299, 355, 551, 539, 535, 532, 'Voucher' 305 for: 459-1-6 is supported by bill for 999-10-6 and is not signed by the payees".

216. The mere fact that the vouchers are not stamped or the stamps on them are not cancelled is also an immaterial defect. (*Hoshlarpur West I.E.C.D. Vol. I* page 267).

217. The item of Rs. 999/10/6 is divided into two parts, and is fully explained in the statement of *Rajinder Sen P.W. 14*.

218. The next objection against the return is that "respondent No. 1 had sent for a large number of workers, males and females, paid and unpaid, from all over the State. He has intentionally with the corrupt intention of keeping the

declared expenses within the prescribed limit omitted or understated their expenses e.g. Amar Nath Dutt (mentioned in voucher No. 245) came from Pathankot and yet only Rs. 5 have been shown on his account. According to 'Nai Rah' (issues No. 9, 10, 11 and 12) a large number of workers and leaders toured the whole constituency and poets from all over the province came to entertain the electorate of the constituency, even their Railway fares have not been showing in the Return e.g. of L. Jagat Narain who remained in the constituency for weeks, or other Ministers who toured the constituency for days, of the paid propagandists mentioned in para. XVI of this list, of Bibi Amar Kaur wife of Mohan Lal Ahluwalla, Advocate, of Bibi Parkash Kaur wife of S. Sardul Singh, Advocate, or Comrade Ram Kishan M.L.A., of Darbara Singh, of Giani Gurmukh Singh Musafir, of S. Thaman Singh President D.C.I. Ferozapore. A very large number of Congress workers had been sent for from all over the province for the Polling days, even their travelling expenses have not been shown in the Return. The petrol and oils bills have been materially understated. Respondent No. 1 has not shown petrol and oil expenses for any truck or tractor though he, employed a large number thereof for transporting electors on the polling days. Petrol used for car No. P.N. 6 and P.N.W. 727, P.N.W. 587 and many others has not been shown in the return. At 662, Ward No. 8 Abohar Respondent No. 1 and L. Munshi Ram Galhotra in his house at Fazilka opened langars for workers and supporters, expenses thereof have not been shown in the return. Respondent No. 1 owed huge sums for petrol to M/S. Devi Dayal Lachhmi Narain Abohar on the date he filed his return and yet he did not show a copper coin as 'Unpaid'. He paid more than Rs. 300 to M/S. Jagdish Chander Manan Lal Abohar for petrol between July 10 and 15th but he did not show the same in his return as unpaid.

219. It was for the petitioner to show that respondent No. 1 had sent for a large number of workers paid and unpaid from all over the State for his election campaign. He has not proved this allegation by any satisfactory evidence. He relied on what is given in some issues of the paper 'Nai Rah'. There is no presumption that whatever is stated in a newspaper is correct. We have already held that the petitioner has failed to prove that any truck or tractor were employed by the respondent or his agents for transporting electors. Similarly there is satisfactory evidence to show that any free kitchen was started by Shri Munshi Ram R.W. 10 or by the respondent or that the respondent owed huge sum to M/S. Devi Dayal Lachhmi Narain of Abohar on the day he filed his return or that he made any payment to Jagdish Chander Manan Lal of Abohar for petrol between 10th and 15th July, 1954. The petrol dealers produced by him as witnesses have also not supported him. During the election period the respondent No. 1 must have had other work to attend and there is nothing surprising if for these purpose he had to go in car. He has included a substantial sum as costs of petrol in his return and it would be too much to contend that that all petrol purchased during the relevant period could only relate to the election.

220. The next objection is that 'many items of expenses have not been shown in the return some to keep the expenses within the prescribed limit and others to deny the commission of corrupt practice and illegal practices, e.g. expenses incurred on the printing of 'Apne Monh Mian Mithu' 'Wapis Jao Ae Qaumi Gaddir'; 'Congress Ka intkhahi Nishan' (20×30/8) Appeal (Urdu) by General Secretary Suba Congress Committee, falsely declared to have been printed at Sadna Press Abohar.

221. There is no force in this objection. We have already held that the respondent had no hand whatsoever in the publication of Ex. P-15. The petitioner has also failed to show that the other two posters i.e. Ex. P-16 and Ex. P-25 were printed and published at the instance of respondent No. 1, or his agents.

222. The next objection is that "respondent No. 1 got more than 15,000 posters pasted on walls and he has shown only Rs. 4-8-0 (voucher No. 83) on that account and that too for labour. No expenses on account of pasting material have been shown. Respondent No. 1 got thousands of "Wall Boards" written throughout the constituency e.g. at Fazilka, Abohar, Giddarbaha, Malout Dabwali and Sira and yet he has not shown a single copper coin paid to a painter on that account".

223. No satisfactory evidence has been produced by the petitioner to prove this allegation either.

224. The next objection is that "for Bibi Amar Kaur and Bibi Parkash Kaur referred to above respondent No. 1 purchased two umbrellas and two pairs of goggles from the shop of M/S. Gopal Das Bhim Sain, General Merchants, and the same have not been shown in the Return".

225. No serious attempt was made by the petitioner to prove that these two ladies did any propaganda for the respondent or that any presents were given to them by the respondent.

226. The return shows that respondent No. 1 expended Rs. 16,474 throughout his election campaign. Under the rules he could spend upto a maximum of Rs. 25,000, hence even if some small items inadvertently omitted from the return were to be added up, the total expenses would not exceed the prescribed maximum, and as such, no corrupt motive can be imputed to him. In the *Ruling Sen and Poddar* 468 at pages 479/480, already referred to above the total expenses shown in the return amounted to Rs. 14,000, but the maximum limit prescribed was Rs. 20,000 and no corrupt motive was inferred from the respondent's failure to include certain items.

227. In the ruling published in Gazette of India Extraordinary, dated 8th December, 1954, decided by the Election Tribunal Raipur, it was held at page 2413, that the knowledge of the respondent should be established regarding the impugned items, which has not been done in the present case.

228. This issue is also thus decided against the petitioner.

Issue No. 5.

229. Neither the respondent nor any one of his agents has been proved guilty of any major or minor corrupt practice or illegal practice. The election of the respondent cannot therefore be set aside. The issue is found against the petitioner.

Issue No. 6.

230. The respondent has not been proved guilty of any corrupt practices or illegal practices specified in the election petition. The issue is found against the petitioner.

231. Before concluding, we may add that the petitioner filed three applications i.e. dated 10th July, 1955, 11th February 1956 and 18th February, 1956.

232. The first application purports to be under Section 99(1)(a)(ii) proviso of the Representation of the People Act, and the other two purport to be under Section 99(1)(a)(i) 140, 141(b) and 142 of the said Act. In reality these applications are an attempt on the part of the petitioner to fill up the lacunae in his petition and the list of particulars, with a view to introduce additional grounds for setting aside the election. The petitioner cannot be permitted to circumvent the law in this indirect manner. We cannot therefore take any notice of these applications in so far as they add to the allegations in the petition or the list of particulars.

233. Under Section 99 of the Act however, we are definitely of the view that no person has been proved at the trial to be guilty of any corrupt or illegal practice entailing any disqualification under the Election Law, hence we do not propose to name any body and the above applications stand dismissed.

234. As a result of our findings on the various issues, we dismiss the petition with costs of respondent No. 1, which we assess at Rs. 1,000 (one thousand).

(Sd.) G. C. BAHL, *Chairman.*

(Sd.) JAWALA SINGH, *Member.*

(Sd.) GURU DATTA SEHGAL, *Member.*

Pronounced to petitioner and S. Iqbal Singh.

ORDER

The following preliminary issues were framed in the case:—

- (1) (a) Whether the list of particulars filed along with the election petition satisfies the requirement of law?
- (b) If not, what is its effect on the petition?
- (2) Is the written statement not verified according to law?

Issues 1

2. Arguments have been heard. It is conceded by the petitioner and his learned counsel that the particulars given in the following paragraphs of the petition do not satisfy the requirement of law, and as such they are ordered to be struck off:—

VII.2(3).

VII.2(6).

VII.3.

VII.7(4).

VII.7(6).
VII.7(7).
VII.7(11).

3. The petitioner's counsel agrees that para. VII.7(12), which runs as follows:—

"For days before Shree Bhim Sain Sachar was to address an election meeting at Sitoguno, the police had been going round the ilaqa and beseeching villagers not to give a cold shoulder to Shri Sachar but to gather in large numbers and to receive him warmly. Not feeling confident about the fruits of their efforts, to check the politically conscious elements from hacking Shree Sachar re the land-lord-tenant controversy in connection with the eviction of tenants and to assist him in his mission a jeep full of armed police under a D.S.P. accompanied Shri Bhim Sain Sachar to Sitoguno. Had Shree Bhim Sain Sachar gone alone or in company with Congress leaders of the ilaqa, he would have met with the reception he deserved and would not have been able to influence the electors even half so much as he actually did under police escort."

is irrelevant and has nothing to do with the merits of the election petition. This is ordered to be struck off.

4. In para. VII.1(1) of the election petition, certain allegations are made against the Punjab Ministers in general, and against two in particulars. The counsel for the petitioner has conceded that these allegations should be deemed as confined only to the Ministers who are specifically named in the said para. We order it accordingly.

5. In para. VII.1(3) of the petition certain black smiths of Fazilka are alleged to have been bribed by the respondent by actually getting them allotted, sites occupied by them on Abhor Road between Gas Mandi and the Abhor Bus Stand. It is urged that the allegations are vague in as much as the names of the black smiths have not been furnished by the petitioner. The petitioner's counsel has made a statement at the Bar that the petitioner applied to the Municipal Committee, Fazilka, for a copy of the application made by the black smiths on 6th May, 1954 but it was refused. Even the copy of the order refusing it was not supplied to him. In the circumstances it was difficult, if not impossible, for him to furnish the names of the black smiths concerned. The date of the application and the order passed are mentioned in the list of particulars filed along with the petition. The persons who are alleged to have been bribed thus are sufficiently fixed. The objection is over-ruled, but so far as the mention of six active supporters and agents of respondent No. 1, recited in para. III of the list of particulars is concerned, their names should have been given. This portion of the para. stands as struck off.

6. In para. VII.1(5) Shri Iqbal Singh respondent No. 1 is alleged to have gifted away 48½ bighas of land to Bhoodan Samiti, with the object of directly inducing Bhoodan workers to vote and work for him. The names and particulars of these workers are not given by the petition which was essential. This portion of the petition is struck off.

7. It is conceded by the petitioner and his counsel that the particulars given in para. XV, sub-paras. 5 and 6 of the list attached to the election petition do not satisfy the requirement of law as the names and particulars of the agents mentioned in these sub-paras. are not given. They are ordered to be struck off.

Issue 2.

8. The written statement appears to have been properly verified and thus there is no force in the objection covered by Issue No. 2.

Amritsar,

19th February, 1955.

(Sd.) G. C. BAHL, *Chairman.*

(Sd.) GURU DATTA SAHGAL, *Member.*

(Sd.) JAWALA SINGH, *Member.*

[No. 82/27/54/6035]

By Order,

P. S. SUBRAMANIAN, *Secy.*